

December 16, 2005

Mary L. Cottrell, Secretary ,  
Department of Telecommunications and Energy  
One South Station  
Boston, MA 02110

**Re:** D.T.E. Docket 99-60, Investigation by the Department of Telecommunications and Energy on its own Motion into the Pricing and Procurement of Default Service Pursuant to G.L. c. 164, § 1B(d)

Dear Secretary Cottrell:

Massachusetts Electric Company and Nantucket Electric Company d/b/a National Grid (collectively the "Companies") hereby submit the results of their most recent solicitation for industrial Default Service and proposed retail rates for the industrial Default Service pricing options resulting from the solicitation for the service period February 1, 2006 through April 30, 2006 ("Service Period"). The Companies also hereby submit their contracts for supply of industrial Default Service for the Service Period, each of which consists of a Master Power Agreement ("Power Agreement") and Master Power Agreement Confirmation ("MPA Confirmation"). The Companies respectfully request Department approval of the MPA Confirmations within five business days of the date of this filing.

In addition, I am enclosing a motion for confidential treatment of the Companies' analysis of the Default Service bids and unredacted versions of the Power Agreements and MPA Confirmations. I am providing the confidential analysis and unredacted Power Agreements and MPA Confirmations directly to Hearing Officer Jeanne Voveris.

For the Industrial Customer Group, the proposed Default Service rates represent an average increase of eleven percent from the respective Default Service rates currently in effect. Attachment 1 contains the winning industrial Default Service prices at the retail meter for the Service Period for industrial Default Service customers resulting from the winning bids. Attachment 2 contains the Companies' calculation of the Default Service rates for the three-month fixed price option for the industrial customer group. Attachment 3 includes the revised tariff supplement to the Companies' Tariff for Default Service<sup>1</sup>, containing the proposed fixed and variable Default Service rates for the Service Period for the industrial customer group. The Companies are proposing that these rates become effective for usage on and after February 1, 2006.

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<sup>1</sup> Both Companies' Tariff for Default Service is M.D.T.E. No. 1041.

### **Results of Current Procurement**

The proposed industrial Default Service rates set forth in Attachment 3 represent an increase from the rates currently in effect. As a result of the damage inflicted by Hurricane Katrina on the Gulf of Mexico natural gas and oil infrastructure, the NYMEX futures prices are still historically high. Since, in general, wholesale electricity prices follow the cost of natural gas, it is not surprising that this procurement resulted in prices similar to those seen in the last procurement. The industrial Default Service rates are also consistent with the Companies' calculation of expected bid prices. This calculation is included in the confidential analysis.

### **Competitive Procurement Process**

Pursuant to the Department's parameters for Default Service procurement, set forth in the several Department orders in dockets D.T.E. 99-60 and D.T.E. 02-40, the Companies issued a Request for Power Supply Proposal ("RFP") on November 16, 2005 to supply the Companies' industrial Default Service needs. This procurement covered the Companies' entire industrial Default Service supply needs for the Service Period. Bidders were required to provide Zone-specific bids for each of the three Zones in which the Companies provide Default Service. This procurement is consistent with past procurements performed by the Companies.

### **Costs associated with the Renewable Portfolio Standards**

Consistent with the Companies' Default Service rates currently in effect, the proposed industrial Default Service rates contained in this filing include an estimate of the costs associated with the Companies' compliance with the Massachusetts Renewable Portfolio Standards ("RPS") that became effective on January 1, 2003. As set forth in the confidential analysis, the Companies are procuring RPS compliant certificates for the majority of their industrial Default Service load as part of this Default Service solicitation. A portion of the Companies' Default Service procurement does not include the purchase of RPS compliance certificates because the RPS costs included by the suppliers were considered above market by the Companies. In the past, the Department has preferred to include in Default Service rates a level of RPS that was indicative of the market for RPS. Therefore, the Companies have included in their industrial Default Service rates the value of RPS based on current market estimates. The Companies believe that the RPS procurement cost for a portion of its Default Service load is a reasonable proxy for the total Default Service load covered by this solicitation.

Mary L. Cottrell, Secretary  
December 16, 2005  
Page 3

**Request for Approval of Supply Contracts**

The Companies' contracts for electric supply with the suppliers for this Service Period consist of the Power Agreements, previously executed, supplemented by the MPA Confirmations, which set forth the specific parameters of the transactions for the Service Period. As stated above, I am providing unredacted copies of the Power Agreements and MPA Confirmations directly to Hearing Officer Jeanne Voveris. Redacted copies of the Power Agreements and MPA Confirmations are attached as Attachment 4 hereto.

MPA Confirmations are subject to Department approval within five business days of the date of this filing. Accordingly, the Companies respectfully request Department approval of the MPA Confirmations within five business days of the date of this filing.

Please do not hesitate to contact me if you have any questions. Thank you very much for your time and attention to this filing.

Very truly yours,

A handwritten signature in black ink, reading "Amy G. Rabinowitz". The signature is written in a cursive, flowing style.

Amy G. Rabinowitz

cc: Service List

COMMONWEALTH OF MASSACHUSETTS  
DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY

Investigation by the Department of	)	
Telecommunications and Energy on its	)	
own motion into the Pricing and	)	D.T.E. 99-60
Procurement of Default Service	)	
Pursuant to G.L. c. 164, §1B(d)	)	

**Motion of Massachusetts Electric Company and Nantucket Electric Company  
d/b/a National Grid For Confidential Treatment**

Pursuant to Mass. Gen. Laws c. 25, §5D, Massachusetts Electric Company and Nantucket Electric Company d/b/a National Grid (collectively “Companies”) hereby move for confidential treatment of (1) the analysis of default service bids that the Companies received in response to their Request for Power Supply Proposal (“RFP”) requesting bids for their industrial default service load for the period February 1, 2006 through April 30, 2006 (“Service Period”), (2) the Master Power Agreements between the Companies and their electric suppliers for the Service Period, and (3) the Master Power Agreement Confirmations between the Companies and their electric suppliers for the Service Period.

The analysis of default service bids and data contained in the rankings constitutes sensitive proprietary information. Protecting this information from public disclosure is in the public interest because disclosure would make public all of the competitive bids received in the RFP process. Although participants understood that the resulting rates would be tied to the Companies’ supply contract prices, the disclosure of all of the competing bids could have adverse competitive effects on future bids for default service, not only for the Companies, but also for other utilities in the state that will need to seek bids for default service.

Similarly, the exact terms under which the Companies agreed to purchase default service supply needs for the Service Period are sensitive proprietary information. The disclosure of the Master Power Agreements and Master Power Agreement Confirmations could have adverse competitive effects on future bids and contracts for default service, not only for the Companies, but also for other utilities in the state that will need to seek bids and enter into contracts for default service. The Companies are providing a redacted, non-confidential version of the Master Power Agreements and Master Power Agreement Confirmations to the Department in their December 16, 2005 filing in this docket.

Respectfully submitted,  
MASSACHUSETTS ELECTRIC COMPANY  
NANTUCKET ELECTRIC COMPANY  
d/b/a NATIONAL GRID

By their attorney,

A handwritten signature in dark ink, appearing to read "Amy G. Rabinowitz". The signature is fluid and cursive, with the first name "Amy" being more prominent.

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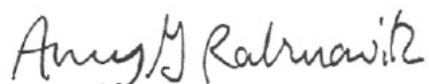
Amy G. Rabinowitz  
25 Research Drive  
Westboro, MA 01582

Dated: December 16, 2005

# CERTIFICATE OF SERVICE

I hereby certify that on December 16, 2005, I served a copy of the Motion of Massachusetts Electric Company and Nantucket Electric Company d/b/a National Grid for Confidential Treatment on the Service List in D.T.E. 99-60 by personal delivery or first class mail.

Signed under the pains and penalties of perjury



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Amy G. Rabinowitz  
Attorney for Massachusetts Electric Company and  
Nantucket Electric Company d/b/a National Grid

Dated: December 16, 2005

## **ATTACHMENT 1**

**Massachusetts Electric Company  
Nantucket Electric Company  
d/b/a National Grid**

**Default Service Prices (cents per kWh at retail)  
Industrial: February 2006 - April 2006**

Customer Group	Contract Month	1	2	3
	Calendar Month	2	3	4
	Year	2006	2006	2006
<b>Industrial</b>				
SEMA		16.561	14.962	12.323
WCMA		16.876	15.267	12.593
NEMA		17.215	15.660	12.711
Portion of load served		100%	100%	100%

Footnotes

1) Monthly prices calculated as the average cost of supply (converted to retail delivery) in a confidential submission under separate cover.



MASSACHUSETTS ELECTRIC COMPANY  
NANTUCKET ELECTRIC COMPANY  
Docket D.T.E. 99-60

## **ATTACHMENT 2**

**Massachusetts Electric Company  
Nantucket Electric Company  
d/b/a/ National Grid**  
Summary of Proposed Default Service Charges  
February 2006 - April 2006

		<b>Zonal Default Service Charges</b>		
		<b>NEMA</b>	<b>SEMA</b>	<b>WCMA</b>
		<b>Industrial</b>	<b>Industrial</b>	<b>Industrial</b>
		<b><u>(G-2, G-3)</u></b>	<b><u>(G-2, G-3)</u></b>	<b><u>(G-2, G-3)</u></b>
		(a)	(b)	(c)
<b><u>Section 1: Variable Default Service Charges, ¢/kWh</u></b>				
(1)	February 2006	17.234	16.580	16.895
(2)	March 2006	15.679	14.981	15.286
(3)	April 2006	12.730	12.342	12.612
<b><u>Section 2: Fixed Default Service Charge, ¢/kWh</u></b>				
(4)	February 2006 - April 2006	15.257	14.671	14.969
<hr/>				
(1)	NEMA G-2,G-3: Page 2, Line (8), Column (a) SEMA G-2,G-3: Page 3, Line (8), Column (a) WCMA G-2,G-3: Page 4, Line (8), Column (a)			
(2)	NEMA G-2,G-3: Page 2, Line (8), Column (b) SEMA G-2,G-3: Page 3, Line (8), Column (b) WCMA G-2,G-3: Page 4, Line (8), Column (b)			
(3)	NEMA G-2,G-3: Page 2, Line (8), Column (c) SEMA G-2,G-3: Page 3, Line (8), Column (c) WCMA G-2,G-3: Page 4, Line (8), Column (c)			
(4)	NEMA G-2,G-3: Page 2, Line (10), Column (d) SEMA G-2,G-3: Page 3, Line (10), Column (d) WCMA G-2,G-3: Page 4, Line (10), Column (d)			

**Massachusetts Electric Company  
Nantucket Electric Company  
d/b/a/ National Grid**

NEMA Industrial Fixed Default Service Charge  
(Rates G-2 and G-3)  
Based on Weighted Average Effective Default Service Prices  
February 2006 - April 2006

**Section 1: Percentage of Industrial kWhs Attributable to Default Service in NEMA**

(1)	November 2005 Industrial Default Service kWhs in the NEMA Zone	82,967,224
(2)	November 2005 Total Industrial kWhs	873,084,982
(3)	Percentage of NEMA Industrial Default Service kWhs to Total Industrial kWhs	9.50%

**Section 2: Projected NEMA Industrial Default Service kWhs, February 2006 - April 2006**

	2006 <u>February</u> (a)	<u>March</u> (b)	<u>April</u> (c)	<u>Total</u> (d)
(4)	Projected Total Company Industrial kWhs	929,224,261	997,613,675	893,477,164 2,820,315,100
(5)	Percentage of NEMA Industrial Default Service kWhs to Total Industrial kWhs	<u>9.50%</u>	<u>9.50%</u>	<u>9.50%</u>
(6)	Projected NEMA Industrial Default Service kWhs	88,302,008	94,800,894	84,905,045 268,007,948

**Section 3: Weighted Average NEMA Industrial Default Service Charge for February 2006 - April 2006**

(7)	Projected NEMA Industrial Default Service kWhs	88,302,008	94,800,894	84,905,045	268,007,948
(8)	Estimated NEMA Industrial Default Service Price per kWh	\$0.17215	\$0.15660	\$0.12711	
(9)	Default Service Cost Reclassification Adjustment Factor	<u>\$0.00019</u>	<u>\$0.00019</u>	<u>\$0.00019</u>	
(10)	Total Estimated NEMA Industrial Default Service Price per kWh	<u>\$0.17234</u>	<u>\$0.15679</u>	<u>\$0.12730</u>	
(11)	Projected NEMA Industrial Default Service Cost, February 2006 - April 2006	\$15,217,968	\$14,863,832	\$10,808,412	<u>\$40,890,213</u>
(12)	Weighted Average NEMA Industrial Default Service Charge, Fixed Price Option, for February 2006 - April 2006				\$0.15257
(13)	Currently Effective NEMA Industrial Default Service Charge, Fixed Price Option				\$0.14113
(14)	Proposed Increase to NEMA Industrial Default Service Charge, Fixed Price Option				\$0.01144

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- (1) Per Company billing records based upon Load Zone designation for each customer account  
(2) November 2005 DOER Form 110, sum of Mass. Electric and Nantucket Electric (Rates G-2 and G-3)  
(3) Line (1) ÷ Line (2)  
(4) Per Company forecast  
(5) Line (3)  
(6) Line (4) x Line (5)  
(7) Line (6)  
(8) Attachment 1, Industrial  
(9) Per Default Service Cost Reclassification Adjustment Provision, MDTE No. 1084  
(10) Line (8) + Line (9)

**Massachusetts Electric Company  
Nantucket Electric Company  
d/b/a/ National Grid**  
SEMA Industrial Fixed Default Service Charge  
(Rates G-2 and G-3)  
Based on Weighted Average Effective Default Service Prices  
February 2006 - April 2006

**Section 1: Percentage of Industrial kWhs Attributable to Default Service in SEMA**

(1)	November 2005 Industrial Default Service kWhs in the SEMA Zone	106,793,354
(2)	November 2005 Total Industrial kWhs	873,084,982
(3)	Percentage of SEMA Industrial Default Service kWhs to Total Industrial kWhs	12.23%

**Section 2: Projected SEMA Industrial Default Service kWhs, February 2006 - April 2006**

		2006			
		<u>February</u>	<u>March</u>	<u>April</u>	<u>Total</u>
		(a)	(b)	(c)	(d)
(4)	Projected Total Company Industrial kWhs	929,224,261	997,613,675	893,477,164	2,820,315,100
(5)	Percentage of SEMA Industrial Default Service kWhs to Total Industrial kWhs	<u>12.23%</u>	<u>12.23%</u>	<u>12.23%</u>	
(6)	Projected SEMA Industrial Default Service kWhs	113,660,156	122,025,361	109,287,670	344,973,187

**Section 3: Weighted Average SEMA Industrial Default Service Charge for February 2006 - April 2006**

(7)	Projected SEMA Industrial Default Service kWhs	113,660,156	122,025,361	109,287,670	344,973,187
(8)	Estimated SEMA Industrial Default Service Price per kWh	\$0.16561	\$0.14962	\$0.12323	
(9)	Default Service Cost Reclassification Adjustment Factor	<u>\$0.00019</u>	<u>\$0.00019</u>	<u>\$0.00019</u>	
(10)	Total Estimated SEMA Industrial Default Service Price per kWh	<u>\$0.16580</u>	<u>\$0.14981</u>	<u>\$0.12342</u>	
(11)	Projected SEMA Industrial Default Service Cost, February 2006 - April 2006	\$18,844,854	\$18,280,619	\$13,488,284	<u>\$50,613,757</u>
(12)	Weighted Average SEMA Industrial Default Service Charge, Fixed Price Option, for February 2006 - April 2006				\$0.14671
(13)	Currently Effective SEMA Industrial Default Service Charge, Fixed Price Option				\$0.13059
(14)	Proposed Decrease to SEMA Industrial Default Service Charge, Fixed Price Option				\$0.01612

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- (1) Per Company billing records based upon Load Zone designation for each customer account  
(2) November 2005 DOER Form 110, sum of Mass. Electric and Nantucket Electric (Rates G-2 and G-3)  
(3) Line (1) ÷ Line (2)  
(4) Per Company forecast  
(5) Line (3)  
(6) Line (4) x Line (5)  
(7) Line (6)  
(8) Attachment 1, Industrial  
(9) Per Default Service Cost Reclassification Adjustment Provision, MDTE No. 1084  
(10) Line (8) + Line (9)

**Massachusetts Electric Company  
Nantucket Electric Company  
d/b/a/ National Grid**

WCMA Industrial Fixed Default Service Charge  
(Rates G-2 and G-3)

Based on Weighted Average Effective Default Service Prices  
February 2006 - April 2006

**Section 1: Percentage of Industrial kWhs Attributable to Default Service in WCMA**

(1)	November 2005 Industrial Default Service kWhs in the WCMA Zone	169,558,409
(2)	November 2005 Total Industrial kWhs	873,084,982
(3)	Percentage of WCMA Industrial Default Service kWhs to Total Industrial kWhs	19.42%

**Section 2: Projected WCMA Industrial Default Service kWhs, February 2006 - April 2006**

		2006 <u>February</u> (a)	<u>March</u> (b)	<u>April</u> (c)	<u>Total</u> (d)
(4)	Projected Total Company Industrial kWhs	929,224,261	997,613,675	893,477,164	2,820,315,100
(5)	Percentage of WCMA Industrial Default Service kWhs to Total Industrial kWhs	<u>19.42%</u>	<u>19.42%</u>	<u>19.42%</u>	
(6)	Projected WCMA Industrial Default Service kWhs	180,460,998	193,742,638	173,518,695	547,722,331

**Section 3: Weighted Average WCMA Industrial Default Service Charge for February 2006 - April 2006**

(7)	Projected WCMA Industrial Default Service kWhs	180,460,998	193,742,638	173,518,695	547,722,331
(8)	Estimated WCMA Industrial Default Service Price per kWh	\$0.16876	\$0.15267	\$0.12593	
(9)	Default Service Cost Reclassification Adjustment Factor	<u>\$0.00019</u>	<u>\$0.00019</u>	<u>\$0.00019</u>	
(10)	Total Estimated WCMA Industrial Default Service Price per kWh	<u>\$0.16895</u>	<u>\$0.15286</u>	<u>\$0.12612</u>	
(11)	Projected WCMA Industrial Default Service Cost, February 2006 - April 2006	\$30,488,886	\$29,615,500	\$21,884,178	<u>\$81,988,563</u>
(12)	Weighted Average WCMA Industrial Default Service Charge, Fixed Price Option, for February 2006 - April 2006				\$0.14969
(13)	Currently Effective WCMA Industrial Default Service Charge, Fixed Price Option				\$0.13382
(14)	Proposed Increase to WCMA Industrial Default Service Charge, Fixed Price Option				\$0.01587

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- (1) Per Company billing records based upon Load Zone designation for each customer account  
(2) November 2005 DOER Form 110, sum of Mass. Electric and Nantucket Electric (Rates G-2 and G-3)  
(3) Line (1) ÷ Line (2)  
(4) Per Company forecast  
(5) Line (3)  
(6) Line (4) x Line (5)  
(7) Line (6)  
(8) Attachment 1, Industrial  
(9) Per Default Service Cost Reclassification Adjustment Provision, MDTE No. 1084  
(10) Line (8) + Line (9)

MASSACHUSETTS ELECTRIC COMPANY  
NANTUCKET ELECTRIC COMPANY  
Docket D.T.E. 99-60

## **ATTACHMENT 3**

MASSACHUSETTS ELECTRIC COMPANY  
NANTUCKET ELECTRIC COMPANY  
SUPPLEMENT TO TARIFF FOR DEFAULT SERVICE  
FOR THE PERIOD NOVEMBER 2005 THROUGH APRIL 2006

In accordance with the terms of the Tariff for Default Service, the rates for Default Service for customers receiving such service from the Company, are as follows. All rates will be applied as a uniform ¢ per kWh charge, for usage on and after the first day of each calendar month.

<u>Rate</u>	<u>Tariff</u>					
	R-1, R-2	<u>G-1</u>	<u>G-2, G-3</u>			S-1, S-2
	<u>R-4, E</u>		<u>SEMA</u>	<u>WCMA</u>	<u>NEMA</u>	<u>S-3, S-5, S-20</u>
Fixed Price Option:	10.718¢	10.500¢	14.671¢	14.969¢	15.257¢	10.500¢
Variable Price Option:						
November 2005	9.382¢	9.205¢	n/a	n/a	n/a	9.205¢
December 2005	10.106¢	9.955¢	n/a	n/a	n/a	9.955¢
January 2006	12.786¢	12.602¢	n/a	n/a	n/a	12.602¢
February 2006	12.576¢	12.417¢	16.580¢	16.895¢	17.234¢	12.417¢
March 2006	9.999¢	9.940¢	14.981¢	15.286¢	15.679¢	9.940¢
April 2006	8.581¢	8.397¢	12.342¢	12.612¢	12.730¢	8.397¢

The Fixed Price Option for Residential and Commercial customer groups (R-1, R-2, R-4, E, G-1, S-1, S-2, S-3, S-5, S-20) is effective for the period November 1, 2005 through April 30, 2006. The Fixed Price Option for the Industrial customer group (G-2, G-3) is effective for the period February 1, 2006 through April 30, 2006.

Effective: February 1, 2006

## **ATTACHMENT 4**



**MASTER POWER AGREEMENT**

This **MASTER POWER AGREEMENT** (“Master Power Agreement”) is dated as of **July 11, 2005** and is by and between **MASSACHUSETTS ELECTRIC COMPANY** (“MECo”), a Massachusetts corporation, **NANTUCKET ELECTRIC COMPANY** (“Nantucket”), a Massachusetts corporation (MECo and Nantucket together “Mass. Electric” or “Buyer”), and each shall be severally and not jointly liable hereunder and corporation. This Master Power Agreement provides for the sale by Seller of Default Service, as defined herein, to the Buyer. The MECo, Nantucket and Seller are referred to herein individually as a “Party” and collectively as the “Parties”.

**ARTICLE 1. BASIC UNDERSTANDINGS**

Seller and Buyer have agreed to execute this Master Power Agreement in order to establish the basic terms of Seller’s provision and sale of, and Buyer’s acceptance and purchase of, Default Service. This Master Power Agreement, together with the Appendices and written supplements (including any Confirmations) hereto, and any designated collateral, credit support or margin agreement or similar arrangement between the Parties regarding the Transactions (as defined in Article 2), shall be referred to as the “Agreement” and shall constitute the entire agreement between the Parties relating to the subject matter hereof and supersedes any other agreements, written or oral, between the Parties concerning such subject matter but specifically excluding written agreements executed by the Parties prior to the Effective Date.

**ARTICLE 2. DEFINITIONS**

As used in this Agreement, the following terms shall have the meanings specified in this Article. In addition, except as otherwise expressly provided, terms with initial capitalization used in this Agreement and not defined herein shall have the meaning as defined in the NEPOOL Rules.

**Affiliate** means, with respect to any Party, any entity (other than a person) that, directly or indirectly, controls, or is controlled by, or is under common control with, such Party. For this purpose, “control” means the direct or indirect ownership of fifty percent (50%) or more of the outstanding capital stock or other equity interests having ordinary voting power.

**Alternative Compliance Payment Rate means** the value as published by the Massachusetts Division of Energy Resources in accordance with 225 CMR 14.08 (4) (a) 2.

**Award Block** means the numerical designation, for administrative purposes only, as may be set forth on a Confirmation to identify Customer Groups to be served from and including the Commencement Date through the Conclusion Date, in a specified Load Zone, and the associated Load Asset Number and Load Asset Name, or other information as may be associated therewith in a Confirmation.

**Business Day** means a 24-hour period ending at 5:00 p.m. EPT, other than Saturday, Sunday and any day which is a legal holiday or a day on which banking institutions in Boston, Massachusetts

## **REDACTED DOCUMENT**

are authorized by law or other governmental action to close.

**Buyer** has the meaning set forth in the preamble of this Master Power Agreement, along with any successors, assigns, employees, agents and authorized representatives thereof.

**Buyer's System** means the electrical transmission and distribution system of the Buyer and the electrical transmission and distribution system of any Affiliate of the Buyer.

**Buyer's Service Territory** means the geographic area served by Massachusetts Electric Company and Nantucket Electric Company including the service territory formerly served by Eastern Edison Company which has been merged with and into Massachusetts Electric Company.

**Commencement Date** means the period at HE 0100 EPT on the date set forth for each Customer Group in the Confirmation for the applicable Transaction.

**Commercial Customer Group** means the Buyer's customers in the Rate G-1, Rate S-1, Rate S-2, Rate S-3, Rate S-5 and Rate S-20 retail rate classes (the "Commercial Rate Classes"), or such other rate classes as may be added from time to time in the SEMA Load Zone, NEMA Load Zone and WCMA Load Zone, as applicable during the Delivery Term, provided that such Commercial Rate Classes shall be comprised of customers previously in one of the Commercial Rate Classes or such customer would have qualified for one of the Commercial Rate Classes.

**Commission** means the Federal Energy Regulatory Commission, or its successor.

**Competitive Supplier Terms** means Buyer's Model Terms and Conditions for Competitive Suppliers, M.D.T.E. No. 1063, as may be amended from time to time.

**Conclusion Date** means the period at HE 2400 EPT on the date set forth for each Customer Group in the Confirmation for the applicable Transaction.

**Confirmation** means a confirmation that is mutually agreed to and executed by the Parties, which may be in the form set forth in Appendix B or in a form otherwise agreed to by the Parties, such document to serve as a supplement or modification of this Master Power Agreement with respect to a specific Transaction.

**Confirmation Term** means, for the applicable Transaction, the period beginning as of the effective date set forth on a Confirmation and continuing through to the date both Parties have fulfilled all of their obligations with respect to such Transaction.

**Contract Rate** has the meaning set forth in the Confirmation for the applicable Transaction.

**Credit Rating** means (i) the lower of the ratings assigned to an entity's unsecured, senior long-term debt obligations (not supported by third party credit enhancements) by S&P and Moody's, (ii) in the event the entity does not have a rating for its senior unsecured long-term debt, the lower of the rating assigned to the entity as an issuer rating by S&P and Moody's, or the rating assigned to the entity as an issuer rating by any other rating agency agreed to by both Parties in each Party's sole and exclusive judgment.

## **REDACTED DOCUMENT**

**Customer Disconnection Date** means the date when a Default Service Customer is disconnected from service, as determined by the Buyer in accordance with the Distribution Service Terms.

**Customer Group** means Buyer's customers who receive Default Service in the Commercial Customer Group, Industrial Customer Group and/or Residential Customer Group in each Load Zone corresponding to each of the foregoing customer groups as specified on the Confirmation for the applicable Transaction.

**Customer Termination Date** means the date when a Default Service Customer ceases to take service under the Default Service Tariff, each date as determined by the Buyer in accordance with the Distribution Service Terms.

**Default Service** means the provision of Requirements by Seller at the Delivery Point to the Buyer to meet all needs of Default Service Customers.

**Default Service Customer(s)** means, for a specific Transaction, the customers in each Customer Group set forth in the applicable Confirmation, taking service in Buyer's Service Territory pursuant to the Default Service Tariff during the applicable Delivery Term.

**Default Service Tariff** means Buyer's Tariff for Default Service, M.D.T.E. No. 1041, as may be amended from time to time and approved by the Department.

**Delivered Energy** means the quantity of energy, expressed in megawatt-hours, provided by Seller with respect to a specific Transaction. This quantity shall be the sum of the quantity of energy reported to the ISO by the Buyer for each of the Load Assets identified in a specific Transaction, with such quantity determined by the Buyer in accordance with Section 6.3 of this Master Power Agreement. Such quantity shall not include any allocation of PTF losses (which the ISO may assess to Seller in relation to such energy), but shall include transmission and distribution losses on the Buyer's System from the Delivery Point to the meters of Default Service Customers.

**Delivery Point** means, for each Load Asset (x) identified in or in accordance with a specific Transaction and (y) as set forth in the Confirmation related to a specific Transaction (i) the Nodes at which the Real-Time Load Obligations are established in the ISO Settlement Power System Model for the registered Load Assets representing the physical loads of Default Service Customers for the Delivery Term for such customers, identified by the Load Asset ("Loads With Nodes"), for any period and in any location in which there are Loads With Nodes and the ISO requires use of Nodes for Real-Time Load Obligations, or (ii) the Load Zones at which the Real-Time Load Obligations are established in the ISO Settlement Power System Model for the Load Assets representing the physical loads of Default Service Customers for the Delivery Term for such customers, identified by the Load Asset ("Loads with Zones") if (a) the ISO does not require use of Nodes for Real-Time Load Obligations and (b) the use of Loads with Zones in a calculation of ISO settlement charges and costs yields the same mathematical result as a calculation thereof using Loads with Nodes; or (iii) in the event of neither (i) nor (ii), Loads with Nodes and, in any location in which there are no Loads with Nodes, Loads with Zones.

**Delivery Term(s)** means the period(s) set forth in the Confirmation for a particular Transaction for the respective Default Service designations, beginning on at the top of the HE 01:00 EPT on

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the Commencement Date (set forth in the applicable Confirmation) and continuing through and including the end of HE 24:00 EPT on the Conclusion Date)

**Department** means the Massachusetts Department of Telecommunications and Energy.

**Distribution Service Terms** means Buyer's Terms and Conditions for Distribution Service, M.D.T.E. No. 997, as may be amended from time to time and approved by the Department.

**Effective Date** means the date that this Master Power Agreement is executed by all Parties.

**EPT** means Eastern Prevailing Time.

**Governing Documents** means, with respect to any particular entity, (a) if a corporation, the (i) articles of organization, articles of incorporation or certificate of incorporation and (ii) the bylaws; (b) if a general partnership, the partnership agreement and any statement of partnership; (c) if a limited partnership, the limited partnership agreement and the certificate of limited partnership; (d) if a limited liability company, the articles or certificate of organization or formation and operating agreement; (e) if another type of entity, any other charter or similar document adopted or filed in connection with the creation, formation or organization of such entity; (f) all equity holders' agreements, voting agreements, voting trust agreements, joint venture agreements, registration rights agreements or other agreements or documents relating to the organization, management or operation of any entity or relating to the rights, duties and obligations of the equity holders of any entity; and (g) any amendment or supplement to any of the foregoing.

**Industrial Customer Group** means the Buyer's customers in the Rate G-2 and Rate G-3 retail rate classes (the "Industrial Rate Classes"), or such other rate classes as may be added from time to time in the SEMA Load Zone, NEMA Load Zone and WCMA Load Zone, as applicable during the Delivery Term, provided that such Industrial Rate Classes shall be comprised of customers previously in one of the Industrial Rate Classes or such customer would have qualified for one of the Industrial Rate Classes.

**Initiation Date** means the date a retail customer of the Buyer begins taking service pursuant to the Default Service Tariff as determined by the Buyer in accordance with the Distribution Service Terms.

**Interest Rate** means, for any date, the lesser of (a) the per annum rate of interest equal to the prime lending rate as may from time to time be published in *The Wall Street Journal* under "Money Rates" on such day (or if not published on such day, on the most recent preceding day on which published), plus two percent (2%) and (b) the maximum rate permitted by applicable law.

**Investment Grade** means (i) if any entity has a Credit Rating from both S&P and Moody's then, a Credit Rating from S&P equal to or better than "BBB-" and a Credit Rating from Moody's equal to or better than "Baa3"; or (ii) if an entity has a Credit Rating from only one of S&P and Moody's, then a Credit Rating from S&P equal to or better than "BBB-" or a Credit Rating from Moody's equal to or better than "Baa3 or (iii) if the Parties have mutually agreed in writing on an additional or alternative rating agency, then a credit rating equal to or better than that mutually agreed to by the Parties in each Party's sole and exclusive judgment.

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**ISO** means ISO New England Inc., authorized by the Commission to exercise for New England the functions required pursuant to the Commission's Order No. 2000 (and its progeny) and the Commission's regulations, and any successor organization (including but not limited to a Regional Transmission Organization.).

**ISO Tariff** means the ISO New England Inc. Transmission, Markets and Services Tariff, FERC Electric Tariff No. 3, as amended, modified, superseded and supplemented from time to time, and including the Market Rules and Procedures.

**ISO New England Operating Documents** means the ISO Tariff and the ISO New England Operating Procedures, as amended, modified, superseded and supplemented from time to time.

**kWh** means Kilowatt-hour.

**Locational Marginal Pricing** means as set forth in the Market Rules and Procedures.

**Market Rules and Procedures** means the Market Rules, Manuals and Procedures adopted by the ISO and/or NEPOOL, as may be amended from time to time, and as administered by the ISO to govern the operation of the NEPOOL markets.

**MA New Renewable Generation Certificate** means certain electronic NE-GIS Certificates produced by NE-GIS that identify generation attributes of each MWh accounted for in the NE-GIS from a new renewable generation unit, that represent and comply with New Renewable Generation Attributes and conform to the Eligibility Criteria set forth in applicable Massachusetts regulations, and shall represent title to and claim over all environmental attributes associated with the specified MWh of generation from the generation unit claiming New Renewable Generation Attributes.

**Material Adverse Effect** means, with respect to a Party, any change in or effect on such Party after the date of this Agreement that is materially adverse to the transactions contemplated hereby, excluding any change or effect resulting from (a) changes in the international, national, regional or local wholesale or retail markets for electric power; (b) changes in the international, national, regional or local markets for any fuel; (c) changes in the North American, national, regional or local electric transmission or distribution systems; and (d) any action or inaction by a governmental authority, but in any such case not affecting the Parties or the transactions contemplated hereby in any manner or degree significantly different from others in the industry as a whole.

**MECo Service Territory** means the geographic area in which Massachusetts Electric Company provides service to retail customers, including the service territory formerly served by Eastern Edison Company which has been merged with and into Massachusetts Electric Company.

**Moody's** means Moody's Investors Service, its successors and assigns.

**MWh** means Megawatt-hour.

**Nantucket Service Territory** means the geographic area served by Nantucket Electric Company.

**NE-GIS** means the NEPOOL Generation Information System, which includes a generation

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information database and certificate system, operated by NEPOOL, its designee or successor entity, that accounts for generation attributes of electricity consumed within New England.

**NE-GIS Certificates** means a document produced by the NE-GIS that identifies the relevant generation attributes of each MWh accounted for in the NE-GIS from a generation unit.

**NEMA Load Zone** means the Northeast Massachusetts Reliability Region as defined in the NEPOOL Rules.

**NEPOOL** means the New England Power Pool, or its successor.

**NEPOOL Agreement** means the Second Restated New England Power Pool Agreement dated as of February 1, 2005, as amended or accepted by the Commission and as may be amended, modified, superseded, supplemented and/or restated from time to time.

**NEPOOL Rules** means all rules adopted by NEPOOL or the ISO, as such rules may be amended, modified, supplemented or superseded and restated from time to time, including but not limited to, the NEPOOL Agreement, the ISO Tariff, the ISO New England Operating Documents, the Transmission Operating Agreement, the Participants Agreement, the NEPOOL Manuals, and the NEPOOL Operating Procedures, as amended, superseded or restated from time to time.

**Net Worth** means total assets, exclusive of intangible assets, less total liabilities, as reflected on the most recent balance sheet prepared by a certified public accountant as part of a certified financial statement in accordance with generally accepted accounting principles consistently applied in the business sector of the Seller.

**New Renewable Generation Attributes** means as defined in Section 14.02 of the Renewable Energy Portfolio Standard.

**PTF** means facilities categorized as Pool Transmission Facilities under the ISO Tariff.

**Renewable Energy Portfolio Standard** means the regulations promulgated pursuant to M.G.L. c. 25A, § 11F that require all retail electricity suppliers to end-use customers in Massachusetts to provide a minimum percentage of electricity sales to contain New Renewable Generation Attributes, which are derived from certain renewable energy generating resources beginning on January 1, 2003, as more explicitly provided for in 225 CMR 14.00.

**Requirements** means all electric generation and/or market purchases and delivery, to the Delivery Point, of the electric capacity, energy, ancillary services, operating reserves (including forward reserves) and all other market products required by the Buyer to provide kilowatt-hours to meet the needs of Default Service Customers to the Delivery Term.

**Residential Customer Group** means the Buyer's customers in the Rate R-1, Rate R-2, Rate R-4 and Rate-E retail rate classes, or such other rate classes as may be added from time to time in the SEMA Load Zone, NEMA Load Zone and WCMA Load Zone, as applicable during the Delivery Term, provided that such Residential Rate Classes shall be comprised of customers previously in one of the Residential Rate Classes or such customer would have qualified for one of the Residential Rate Classes.

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**RPS Requirement** means the quantity, if any, of MA New Renewable Generation Certificates to be provided by Seller as set forth in the Confirmation for a specific Transaction.

**SEMA Load Zone** means the Southeast Massachusetts Reliability Region as defined in the NEPOOL Rules.

**S&P** means Standard & Poor's Rating Group, its successors and assigns.

**Term** means as defined in Section 3.1.

**Transaction** means a particular transaction agreed to by Buyer and Seller relating to the purchase and sale of Default Service pursuant to this Agreement, as evidenced by the execution of a written Confirmation by Buyer and Seller setting forth the specific terms and conditions thereof.

**WCMA Load Zone** means the Western Central Massachusetts Reliability Region as defined in the NEPOOL Rules.

### **ARTICLE 3.            TERM, SERVICE PROVISIONS AND REGISTRATION REQUIREMENTS**

#### **Section 3.1    Term**

The term of this Master Power Agreement (the “Term”) shall commence on the Effective Date and shall continue in effect until the earlier of (i) its termination by any Party upon thirty (30) days’ prior written notice and (ii) its termination in accordance with Subsection 7.2(a); provided, however, that such termination shall not affect or excuse the performance of any Party under Section 7.3, or under any provision of this Master Power Agreement that by its terms or operation survives any such termination and, provided further, that this Master Power Agreement and any other documents executed and delivered hereunder shall remain in effect with respect to the Transaction(s) entered into prior to the effective date of such termination until both Parties have fulfilled all of their obligations with respect to such Transaction(s) (including security provided under Section 7.3). As of the termination of this Master Power Agreement, subject to the immediately foregoing sentence, and subject to any time limits specifically set forth in this Master Power Agreement or in a Confirmation, the Parties shall no longer be bound by the terms and provisions hereof, except to the extent necessary to enforce the rights and obligations of the Parties arising under this Master Power Agreement before such expiration or termination.

#### **Section 3.2    Commencement of Supply**

(a) Beginning as of the Commencement Date for each specific Customer Group in a specific Transaction, Seller shall provide Requirements to the Buyer. For purposes of certainty: Seller's obligations on the Commencement Date shall be to provide Requirements for all Default Service Customers identified in the related Confirmation taking service as of and including the Commencement Date.

(b) With respect to each person or entity that becomes a Default Service Customer subsequent to the applicable Commencement Date, Seller shall provide Requirements to the

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Buyer to meet the needs of the Default Service Customer(s) as of and including the Initiation Date for such customer initiating such service during the applicable Delivery Term.

(c) If Seller elects to receive electronic notification as provided in Section 3.7, the Buyer shall provide to Seller a notice of Initiation Date via electronic file transfer and in a format specified by the Buyer. Each notice of Initiation Date shall include the account number, the date Seller's service to the Buyer is to begin for a Default Service Customer and the customer's rate class.

### **Section 3.3 Termination and Conclusion of Supply**

(a) With respect to each Default Service Customer that terminates Default Service during the applicable Delivery Term, Seller shall provide Requirements to the Buyer for such customer on the Customer Termination Date but shall not provide Requirements for such customer after the Customer Termination Date.

(b) If Seller elects to receive electronic notification as provided in Section 3.7, the Buyer shall provide to Seller a notice of Customer Termination Date via electronic file transfer and in a format specified by the Buyer. Each notice of Customer Termination Date shall include the account number, the Customer Termination Date and the customer's rate class.

(c) Seller's obligation to provide Requirements with respect to each specific Customer Group in a specific Transaction shall cease at the applicable Conclusion Date.

### **Section 3.4 Customer Disconnection Date**

(a) With respect to each Default Service Customer whose Default Service is disconnected during the applicable Delivery Term, Seller shall provide Requirements to the Buyer for such customer on the Customer Disconnection Date but shall not provide Requirements for such customer after the Customer Disconnection Date.

(b) If Seller elects to receive electronic notification as provided in Section 3.7, The Buyer shall provide to Seller a notice of Customer Disconnection Date via electronic file transfer and in a format specified by the Buyer. Each notice of Customer Disconnection Date shall include the account number, the Customer Disconnection Date and the customer's rate class.

### **Section 3.5 Distribution Service Interruptions**

Seller acknowledges that interruptions in distribution service occur and may reduce the load served hereunder. Seller further acknowledges and agrees that the Buyer may interrupt distribution service to customers consistent with the Distribution Service Terms and the Competitive Supplier Terms. In no event shall a Party have any liability or obligation to the other Party in respect of any such interruptions in distribution service.

### **Section 3.6 Release of Customer Information**

The Buyer will not issue any customer information to Seller unless Seller has first obtained the necessary authorization in accordance with the provisions of the Competitive Supplier Terms.



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### Section 3.7 Electronic Notification

At Seller's election, the Buyer shall provide notices contemplated by Sections 3.2, 3.3 and 3.4 via electronic file transfer. Such election shall only be effective when Seller (i) establishes an account on the Advantis Value Added Network ("VAN"), and (ii) verifies its ability to transfer files to and receive files from the Buyer at least fourteen (14) days prior to the day on which Seller desires to commence electronic receipt. Seller shall bear all costs to establish an account and all costs of Seller and the Buyer to use the VAN. If Seller fails to pay all VAN costs and charges when due and payable, Seller's election shall not be valid and the Buyer shall no longer be obligated to provide electronic notification.

### Section 3.8 Change in Supply; No Prohibition on Programs

(a) Seller acknowledges and agrees that the number of customers and the Requirements to meet the needs of such customers will fluctuate throughout the Delivery Term and may equal zero. The Buyer shall not be liable to Seller for any losses Seller may incur, including but not limited to lost revenues, and losses that may result from any change in Requirements, number or location of customers taking service, the location of the Delivery Point(s), the composition or components of market products or Requirements, or the market for electricity, or change in the Distribution Service Terms or the Default Service Tariff. Seller further acknowledges and agrees that there is no limit on the number of Customer Initiation Dates, Customer Termination Dates and Customer Disconnection Dates.

(b) Seller acknowledges and agrees that the Buyer has the right but not the obligation to continue, initiate, support or participate in any programs, promotions, or initiatives designed to or with the effect of encouraging customers to leave Default Service for any reason ("Programs"). Nothing in this Agreement shall be construed to require notice to or approval of Seller in order for the Buyer to take any action in relation to Programs. Buyer shall make reasonable efforts to notify Seller of Programs that Buyer intends to participate in or support that are reasonably likely to have a Material Adverse Effect on the Agreement; provided however, failure of Buyer to provide such notice shall not constitute a default or an Event of Default under Section 7.1.

(c) Seller acknowledges and agrees that the Buyer and Affiliates of the Buyer will not provide Seller preferential access to or use of the Buyer's System and that Seller's sole and exclusive rights and remedies with regard to access to, use or availability of the Buyer's System, and the Buyer's or Affiliates of the Buyer's obligation to transmit electricity are those rights, remedies and obligations provided under the Distribution Service Terms or the NEPOOL Rules.

### Section 3.9 Uniform Disclosure Requirements

Seller shall provide the Buyer information reasonably ascertainable by Seller pertaining to power plant emissions, fuel types, labor information and any other information required by the Buyer to comply with the uniform disclosure requirements contained in 220 CMR 11.00 (collectively, "Disclosure Information") and any other disclosure regulations which may be imposed upon the Buyer during the term of this Agreement, as such disclosure requirements apply to Default Service provided by Seller pursuant to this Agreement. To the extent Disclosure Information is subject to obligations of confidentiality, Seller shall use reasonable efforts to obtain the consent of the entity to whom Seller owes the obligation (the "Seller's Counterparty") to provide the Disclosure Information for purposes of this clause. Seller's reasonable efforts

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required by the preceding sentence shall include an effort to obtain the consent to provide all information. If Seller cannot obtain the consent of the Seller's Counterparty after using such reasonable efforts, Seller's obligation under this clause shall be limited to providing the information in a form that does not violate such obligation of confidentiality. Buyer acknowledges Seller has no obligation under this Agreement to provide the Buyer with Requirements from any particular generating unit or units.

Seller shall utilize the NE-GIS to transfer Load Obligations or NE-GIS Certificates, as applicable, to the Buyer's certificate account in the number equal to the Delivered Energy for Default Service in a month during the term of a Transaction. Such Load Obligations or NE-GIS Certificates, as applicable, shall be delivered by Seller at least five (5) Business Days prior to the close of the applicable Trading Period. The Load Obligations or NE-GIS Certificates, as applicable, shall be delivered by Seller to an account within the NE-GIS designated by the Buyer.

### **Section 3.10 Customer Bill Inserts**

Seller may furnish the Buyer with a one page bill insert which the Buyer may include in the bill that the Buyer sends to each Default Service Customer in the Commercial Customer Group, the Industrial Customer Group or the Residential Customer Group as to which Seller is providing Requirements to the Buyer during the Delivery Term for such customer group. Bill inserts provided by Seller shall be included in only one monthly billing cycle during the Delivery Term. Such inserts shall be printed on 60# Mountie Matte paper, shall be three and one-quarter inches high by six and one-quarter inches wide in size and may be of any typeface except ITC Century and ITC Franklin Gothic.

Seller shall notify the Buyer at least sixty (60) days prior to the start of the monthly billing cycle in which Seller requests Buyer to include Seller's insert in Default Service Customer bills. A copy of the proposed bill insert is to be included with Seller's initial notification and must be reviewed by the Department before final printing. The Buyer will respond within seven (7) days if it can accommodate Seller's request. If space allows for inclusion, but additional postage is required, the Buyer will provide an estimate of the cost of additional postage to be paid by Seller in order to include the insert in the requested monthly billing cycle, or will suggest an alternate start date. Subject to the foregoing, inserts may be included in any bill sent to a Default Service Customer in the Commercial Customer Group, the Industrial Customer Group or the Residential Customer Group taking service pursuant to the Default Service Tariff during the Delivery Term and in the monthly billing cycle selected by Seller. Inserts must be received by the Buyer at least ten (10) days prior to the start date of their inclusion in customer bills.

Bill inserts shall be sent to the following address in a package clearly marked "[Name of Customer Group & Seller] Bill Inserts - Requested Commencement Date of Mailing: [DATE]":

Pitney Bowes  
Attn: Steve Roy  
25 International Drive  
Windsor, CT 06095

A single copy of each insert, along with the requested commencement date of mailing, shall also be sent to the following:

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Mr. Michael J. Hager  
Vice President, Energy Supply – New England  
National Grid USA Service Company, Inc  
55 Bearfoot Road  
Northborough, MA 01532

Mr. Joseph G. McLaughlin  
Manager, Billing and Systems  
National Grid USA Service Company, Inc  
55 Bearfoot Road  
Northborough, MA 01532

The Buyer shall be responsible for including no more than the quantity of inserts provided to it by Seller. The Buyer shall not be responsible for returning to Seller unused inserts unless Seller has made prior arrangements for their return.

### ARTICLE 4. SALE AND PURCHASE

#### Section 4.1 Provision Delivery and Receipt

With respect to each Transaction, Seller shall provide and deliver to the Delivery Point and the Buyer shall receive at the Delivery Point the percent of the Requirements applicable to each Customer Group during the Delivery Term, all as set forth in the Confirmation related to such Transaction.

#### Section 4.2 Responsibilities

(a) The Buyer shall arrange with the ISO for transmission service over the PTF and non-PTF from and after the Delivery Point to the customers' meters. The Buyer shall be responsible for all transmission costs over the PTF and non-PTF from the Delivery Point to the meters of the Buyer's customers. Seller shall be responsible for all transmission and distribution costs associated with the delivery of Requirements to and including the Delivery Point except the transmission costs otherwise provided for in this paragraph.

(b) Seller shall be responsible for all decisions and data submissions associated with the Ownership Share of the Load Assets in ARTICLE 6, Section 6.4 including any bids into the market system to manage these obligations.

(c) Seller shall be responsible for all present and future obligations, requirements, and costs associated with the Requirements and/or Seller's provision thereof including, but not limited to, the real-time load obligations, ICAP/UCAP/Locational ICAP/locationally unforced capacity obligations and/or charges, regulation obligations and/or charges (including any regulation opportunity costs), operating reserve obligations and/or charges (including, but not limited to, (x) any forward reserve charges and (y) RMR operating reserve charges other than RMR operating reserve charges that are monthly fixed-cost charges paid to resources pursuant to agreements negotiated under Market Rule 1 Appendix A, Section 6), net commitment period compensation (NCPC) charges (other than RMR NCPC charges that are monthly fixed-cost charges paid to resources pursuant to agreements negotiated under Market Rule 1 Appendix A, Section 6), emergency energy charges, inadvertent energy revenue charges, ISO Schedule 1 charges other than those that are both (i) associated with the Buyer's RNS Service and (ii) allocated on the basis of Network Load, ISO Schedule 2 charges, ISO Schedule 3 charges, day-ahead energy market charges, and real-time energy market charges at the nodes, if any, and if none, the zones representing the actual locations of the meters of the Default Service Customers, and any other requirements, market products, expenses and charges imposed by NEPOOL or the

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ISO, as they may be in effect from time to time related to the provision and/or delivery of Requirements to and including the Delivery Point. Except as otherwise specifically excluded in this paragraph, Seller's responsibility for costs and charges shall be without regard to the manner in which they are allocated by NEPOOL or the ISO.

(d) Seller shall be responsible for all costs and components and entitled to any credits or benefits of any Locational Marginal Prices to provide Default Service (during the applicable Delivery Term), including its delivery to the Delivery Point. These components include the energy component, loss component, and congestion component.

(e) Seller shall be responsible for all congestion charges for delivery to the actual meters of Default Service Customers (during the applicable Delivery Term).

(f) Seller shall utilize the NE-GIS to transfer MA New Renewable Generation Certificates to the Buyer's certificate account in the number equal the RPS Requirement in a month. MA New Renewable Generation Certificates shall be delivered by Seller to an account within the NE-GIS designated by the Buyer at least five (5) Business Days prior to the close of the applicable Trading Period.

(g) Seller shall notify Buyer within one Business Day of receipt of notice of termination from the ISO or event of default or similar occurrence under the Market Participant Service Agreement.

### **ARTICLE 5. AMOUNT, BILLING and PAYMENT**

#### **Section 5.1 Amount**

The amount payable by the Buyer to Seller for Delivered Energy shall be the sum of the amounts due under all applicable Transactions.

#### **Section 5.2 Billing and Payment**

(a) On or before the tenth (10th) day of each month during the Term, Seller shall calculate the amount due and payable to Seller for Delivered Energy with respect to the preceding month (the "Calculation"). Seller shall provide the Calculation to the Buyer and such Calculation shall include sufficient detail for the Buyer to verify its formulation and computation. Calculations under this paragraph shall be subject to recalculation in accordance with Article 6 and shall be subject to adjustment (positive or negative) based upon such recalculation (a "Reconciliation Adjustment"). Seller shall promptly calculate the Reconciliation Adjustment upon receiving data described in Section 6.3 and shall include the adjustment, if any, in the next month's Invoice. A Reconciliation Adjustment based upon a change in the quantity for an earlier month shall be calculated using the applicable Contract Rate for the month in which the Delivered Energy was received.

(b) Seller shall submit to the Buyer an invoice with such Calculation as provided for in paragraph (a) of this Section (the "Invoice") and the respective amounts due under this Master Power Agreement not later than the tenth (10th) day of each month. The Buyer shall pay Seller the amount of the Invoice (including the Reconciliation Adjustment, if any, as a debit or credit) less any amounts disputed in accordance with Section 5.3, on or before the later of (i) the

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twentieth (20<sup>th</sup>) day of the month following the month of services or (ii) the tenth (10<sup>th</sup>) day after receiving the Invoice (the "Due Date"). Except for amounts disputed in accordance with Section 5.3, if all or any part of the Invoice remains unpaid after the Due Date, interest shall accrue after but not including the Due Date and be payable to Seller on such unpaid amount at the Interest Rate in effect on the Due Date. The Due Date for a Reconciliation Adjustment shall be the Due Date of the Invoice in which it is included.

(c) Each Party shall notify the other Party upon becoming aware of an error in an Invoice, Calculation or Reconciliation Adjustment (whether the amount is paid or not) and Seller shall promptly issue a corrected Invoice. Overpayments shall be returned by the receiving Party upon request or deducted by the receiving Party from subsequent invoices, with interest accrued at the Interest Rate from the date of the receipt of the overpayment until the date paid or deducted.

### **Section 5.3    Challenge to Invoices**

Unless otherwise agreed: (i) either Party may challenge, in good faith and in writing, the accuracy of Calculations, Invoices or Reconciliation Adjustments (or the data utilized in the forgoing ) no later than twenty-four (24) months after the Due Date of the Invoice in which the disputed information is contained; (ii) if a Party does not challenge the accuracy within such twenty-four (24) month period, such Invoice shall be binding upon that Party and shall not be subject to challenge. If an Invoice is paid and thereafter the payment or the Invoice on which the payment was based is disputed, upon notice of dispute, the Party receiving payment shall hold the amount in dispute in escrow for the benefit of the prevailing Party until the resolution of such dispute. If any amount in dispute is ultimately determined (under the terms herein) to be due to the other Party, it shall be paid or returned (as the case may be) to the other Party within three (3) Business Days of such determination along with interest accrued at the Interest Rate from the (i) date due and owing in accordance with the Invoice until the date paid or (ii) if the amount was paid and is to be returned, from the date paid, until the date returned.

### **Section 5.4    Taxes, Fees and Levies**

Seller shall be obligated to pay all present and future taxes, fees and levies ("Taxes") which may be assessed by any entity upon the Seller's performance under this Agreement including but not limited to the purchase and sale of Requirements and MA New Renewable Generation Certificates to the Buyer associated with the Delivery of the Requirements up to and at the Delivery Point. The Buyer will pay all Taxes with respect to the Requirements after the Delivery Point. All Requirements, including electricity and other related market products delivered hereunder by Seller to the Buyer shall be sales for resale with the Buyer reselling such electricity and products.

### **Section 5.5    Netting and Setoff**

Except for security provided pursuant to this Agreement (which shall not be considered for purposes of this Section 5.5) and unless otherwise specified in another agreement between the Parties, if the Parties are required to pay an amount in the same month each to the other under this Agreement or any other agreement between the Parties, or if any costs that are a Party's responsibility under this Agreement are incorrectly or inappropriately charged to the Party by the ISO, such amounts shall be netted, and the Party owing the greater aggregate amount shall pay to the other Party any difference between the amounts owed. Each Party reserves all rights, setoffs,

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counterclaims and other remedies and defenses (to the extent not expressly herein or therein waived or denied) that such Party has or to which such Party may be entitled arising from or out of this Agreement or the other agreement. Further, if either Party incurs any costs or charges that are the responsibility of the other Party under this Agreement, such costs or charges may, at the first Party's election, be netted against any amount due to the other Party under this Agreement. All outstanding obligations to make payment under this Agreement or any other agreement between the Parties may be netted against each other, set off or recouped therefrom, or otherwise adjusted.

### **ARTICLE 6.           QUALITY; LOSSES and QUANTITIES REQUIRED; DETERMINATION AND REPORTING OF HOURLY LOADS**

#### **Section 6.1    Quality**

All electricity shall be delivered to the Buyer in the form of three-phase sixty-hertz alternating current at the Delivery Point.

#### **Section 6.2    Losses**

Seller shall be responsible for all transmission and distribution losses and the costs related to such losses and associated with the Requirements, namely, losses from the Delivery Point to the meters of the Default Service Customers. Seller shall provide to the Buyer at the Delivery Point quantities of electricity and ancillary services, capacity and all other market products related thereto to cover such losses from the Delivery Point to the meters of Default Service Customers. The quantities required for this purpose in each hour of a billing period shall be determined in accordance with ISO's and the Buyer's procedures for loss determination.

#### **Section 6.3    Determination and Reporting of Hourly Loads**

(a)    The Buyer will estimate the Delivered Energy for Default Service provided by Seller pursuant to each Transaction based upon average load profiles developed for each of the Buyer's customer classes and the Buyer's actual total hourly load. The Buyer shall report to the ISO and Seller, the estimated Delivered Energy for each Transaction. The Buyer will normally report to the ISO and to Seller Seller's estimated Delivered Energy by 1:00 P.M. EPT of the second following Business Day. Appendix A provides a general description of the estimation process that the Buyer will initially employ (the "Estimation Process"). The Buyer shall have the right but not the obligation, in its sole and exclusive judgment, to modify the Estimation Process from time to time, provided that any such modification is designed with the objective of improving the accuracy of the Estimation Process.

Each month, the Buyer shall reconcile the Buyer's estimate of the Delivered Energy for each Transaction based upon the Buyer's meter reads (such meter reads as provided for in the Distribution Service Terms). The reconciliation, including all losses, shall be the adjusted Delivered Energy. The Buyer will normally notify the ISO of any resulting adjustment (debit or credit) to Seller's account for the Load Assets (set forth in a specific Confirmation) no later than the last day of the third month following the billing month. Appendix A provides a general description of this reconciliation process, which process may be changed by the Buyer from time to time in its sole and exclusive discretion.

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### Section 6.4 ISO Settlement Market System Implementation

As soon as possible after the execution of a Confirmation related to a specific Transaction and before the applicable Commencement Date, the Buyer shall assign to Seller, and Seller shall accept assignment of an Ownership Share for each Load Asset in such Confirmation. Such assignment shall be effective beginning on the applicable Commencement Date. Seller shall maintain such ownership until the Conclusion Date (or, if earlier, the termination date established in accordance with 7.2(a)). For Load Assets representing load in the Nantucket Service Territory, Seller shall also accept the transfer of Lead Load Asset Owner (“LLAO”) and shall be the LLAO beginning on the applicable Commencement Date and shall remain the LLAO until the Conclusion Date (or, if earlier, the termination date established in accordance with 7.2(a)). Seller shall take any and all actions necessary to effectuate such assignment and, if applicable in accordance with the foregoing, transfer, including executing documents required by the ISO. Once Seller’s provision of Default Service terminates (effective as of the minute after the Conclusion Date or, if earlier, the termination date established in accordance with 7.2(a)), the Buyer will terminate Seller’s Ownership Shares and Lead Load Asset Ownership, as applicable, of the aforementioned Load Assets

The Buyer shall have the right to change the Load Asset designations from time to time, consistent with the definition and provision of Default Service. If and to the extent such designations change, the Buyer and Seller shall cooperate to timely put into effect the necessary ISO Settlement Market System contracts that may be necessary to implement the new designations and terminate the prior designations.

## **ARTICLE 7. DEFAULT AND TERMINATION**

## **ARTICLE 8. NOTICES, REPRESENTATIVES OF THE PARTIES**

### Section 8.1 Notices

Any notice, demand, or request required or authorized by this Agreement to be given by one Party to another Party shall be in writing. It shall either be sent by facsimile (with receipt confirmed by telephone and electronic transmittal receipt), courier, personally delivered (including overnight delivery service) or mailed, postage prepaid, to the representative of the other Party designated in accordance with this Article. Any such notice, demand, or request shall be deemed to be given (i) when sent by facsimile confirmed by telephone and electronic transmittal receipt, (ii) when actually received if delivered by courier or personal delivery (including overnight delivery service) or (iii) seven (7) days after deposit in the United States mail, if sent by first class mail return receipt requested.

Notices and other communications by Seller to the Buyer shall be addressed to:

Mr. Michael J. Hager  
Vice President, Energy Supply – New England  
National Grid USA Service Company, Inc.  
55 Bearfoot Road

## **REDACTED DOCUMENT**

Northborough, MA 01532  
(508) 421-7350 (phone)  
(508) 421-7335 (fax)

and

Notices concerning Article 7 shall also be sent to:

General Counsel  
National Grid USA Service Company, Inc.  
25 Research Drive  
Westborough, MA 01582  
(508) 389-9000 (phone)  
(508) 389-2605 (fax)

Notices and other communications by the Buyer to Seller shall be addressed to:

Any Party may change its representative or address for notices by written notice to the other Party; however such notice shall not be effective until it is received by the other Party.

### **Section 8.2    Authority of Representative**

The Parties' representatives shall have full authority to act for their respective Party in all matters relating to the performance of this Agreement. Notwithstanding the foregoing, a Party's representative shall not have the authority to amend, modify, or waive any provision of this Agreement unless they are duly authorized officers of their respective entities and such amendment, modification or waiver is made in accordance with Article 17.

## **ARTICLE 9.            LIABILITY; INDEMNIFICATION; RELATIONSHIP OF PARTIES**

### **Section 9.1    Limitation on Consequential, Incidental and Indirect Damages**

THERE IS NO WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AND ANY AND ALL IMPLIED WARRANTIES ARE DISCLAIMED. EXCEPT AS EXPRESSLY PROVIDED IN SECTIONS 9.2, TO THE FULLEST EXTENT PERMISSIBLE BY LAW, NEITHER THE BUYER NOR SELLER, NOR THEIR RESPECTIVE OFFICERS, DIRECTORS, AGENTS, EMPLOYEES, PARENT OR AFFILIATES, SUCCESSOR OR ASSIGNS, (OR THE ASSIGNEES' RESPECTIVE OFFICERS, DIRECTORS, AGENTS, OR EMPLOYEES, SUCCESSORS, OR ASSIGNS), SHALL BE LIABLE TO THE OTHER PARTY OR ITS PARENT, SUBSIDIARIES, AFFILIATES, OFFICERS, DIRECTORS, AGENTS, EMPLOYEES, SUCCESSORS OR ASSIGNS, FOR CLAIMS, SUITS, ACTIONS OR CAUSES OF ACTION FOR INCIDENTAL, INDIRECT, SPECIAL, PUNITIVE, MULTIPLE OR CONSEQUENTIAL DAMAGES (INCLUDING ATTORNEY'S FEES OR LITIGATION COSTS AND IN ACCORDANCE WITH THE LIMITATION THEREUNDER) CONNECTED WITH OR RESULTING FROM PERFORMANCE OR NON-PERFORMANCE OF THIS AGREEMENT, OR ANY ACTIONS UNDERTAKEN IN CONNECTION WITH OR RELATED TO THIS AGREEMENT, INCLUDING WITHOUT LIMITATION ANY SUCH DAMAGES WHICH ARE BASED



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UPON CAUSES OF ACTION FOR BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE AND MISREPRESENTATION), BREACH OF WARRANTY, STRICT LIABILITY, STATUTE, OPERATION OF LAW, OR ANY OTHER THEORY OF RECOVERY. THE PROVISIONS OF THIS SECTION SHALL APPLY REGARDLESS OF FAULT AND SHALL SURVIVE TERMINATION, CANCELLATION, SUSPENSION, COMPLETION OR EXPIRATION OF THIS AGREEMENT.

### **Section 9.2    Indemnification**

(a) Seller agrees to defend, indemnify and save the Buyer, its officers, directors, employees, agents, successors assigns, and Affiliates and their officers, directors, employees and agents harmless from and against any and all third-party claims, suits, actions or causes of action and any resulting losses, damages, charges, costs or expenses, (including reasonable attorneys' fees and court costs), resulting from any (a) breach of a representation or warranty or failure to perform any covenant or agreement in this Agreement by Seller, (b) any violation of applicable law, regulation or order by Seller that relates to Seller's performance of its obligations hereunder, (c) any act or omission by Seller with respect to this Agreement, first arising, occurring or existing during the term of this Agreement, whether incurred by settlement or otherwise, and whether such claims or actions are threatened or filed prior to or after the termination of this Agreement, except in all such cases to the extent caused by an act of negligence, gross negligence or willful misconduct by an officer, director, agent, employee, or Affiliate of the Buyer or its respective successors or assigns.

(b) The Buyer agrees to defend, indemnify and save Seller, its officers, directors, employees, agents, successor, assigns, and Affiliates and their officers, directors, employees and agents harmless from and against any and all third-party claims, suits, actions or causes of action and any resulting losses, damages, charges, costs or expenses, (including reasonable attorneys' fees and court costs), resulting from any (a) breach of representation or warranty or failure to perform any covenant or agreement in this Agreement by said Buyer, (b) any violation of applicable law, regulation or order by Buyer that relates to Buyer's performance of its obligations hereunder, (c) any act or omission by the Buyer with respect to this Agreement first arising, occurring or existing during the term of this Agreement, whether incurred by settlement or otherwise, and whether such claims or actions are threatened or filed prior to or after the termination of this Agreement, except in all such cases to the extent caused by an act of negligence, gross negligence or willful misconduct by an officer, director, agent, employee or Affiliate of Seller or its respective successors or assigns.

(c) If any Party intends to seek indemnification under this Section from the other Party with respect to any action or claim, the Party seeking indemnification shall give the other Party notice of such claim or action within thirty (30) days of the later of the commencement of, or actual knowledge of, such claim or action; provided, however, that in the event such notice is delivered more than thirty (30) days after the Party seeking indemnification knows of such claim or action, the indemnifying Party shall be relieved of its indemnity hereunder only if and to the extent such indemnifying Party was actually prejudiced by such delay. The Party seeking indemnification shall have the right, at its sole cost and expense, to participate in the defense of any such claim or action. The Party seeking indemnification shall not compromise or settle any such claim or action without the prior consent of the other Party, which consent shall not be unreasonably withheld.

### **Section 9.3    Independent Contractor Status**

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Nothing in this Agreement shall be construed as creating any relationship between the Buyer and Seller other than that of independent contractors for the sale and delivery of Requirements for Default Service.

### **ARTICLE 10. ASSIGNMENT**

#### **Section 10.1 General Prohibition Against Assignments**

Except as provided in Section 10.2, neither Party shall assign, pledge or otherwise transfer this Agreement or any right or obligation under this Agreement without first obtaining the other Party's written consent, which consent shall not be unreasonably withheld.

#### **Section 10.2 Exceptions to Prohibition Against Assignments**

### **ARTICLE 11. SUCCESSORS AND ASSIGNS**

This Agreement shall inure to the benefit of and shall be binding upon the Parties hereto and their respective successors and permitted assigns.

### **ARTICLE 12. FORCE MAJEURE**

(a) Force Majeure shall include but not be limited to acts of God, earthquakes, fires, floods, storms, strikes, labor disputes, riots, insurrections, acts of war (whether declared or otherwise), acts of governmental, regulatory or judicial bodies, but if and only to the extent that such event or circumstance (i) directly affects the availability of the transmission or distribution facilities of the New England Transmission System, the Buyer or an Affiliate of the Buyer necessary to provide service to the Buyer's customers which are taking service pursuant to the Default Service Tariff and (ii) it is not within the reasonable control of, or the result of the negligence of, the claiming Party, and which, by the exercise of due diligence, the claiming Party is unable to overcome or avoid or cause to be avoided. Force Majeure shall not be based on (A) fluctuations in Default Service, (B) the cost to a Party to overcome or avoid, or cause to be avoided, the event or circumstance affecting such Party's performance or (C) events affecting the availability or cost of operating any generating facility.

(b) To the extent that either Party is prevented by Force Majeure from carrying out, in whole or in part, its obligations hereunder and (i) such Party gives notice and detail of the Force Majeure to the other Party as soon as practicable after the onset of the Force Majeure, including an estimate of its expected duration and the probable impact on the performance of its obligations hereunder; (ii) the suspension of performance is of no greater scope and of no longer duration than is required by the Force Majeure, and (iii) the Party claiming Force Majeure uses commercially reasonable efforts to remedy or remove the inability to perform caused by Force Majeure, then the affected Party shall be excused from the performance of its obligations prevented by Force Majeure. However, neither Party shall be required to pay for any obligation the performance of which is excused by Force Majeure. This paragraph shall not require the settlement of any strike, walkout, lockout or other labor dispute on terms which, in the sole judgment of the Party involved in the dispute, are contrary to its interest. It is understood and

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agreed that the settlement of strikes, walkouts, lockouts or other labor disputes shall be entirely within the discretion of the Party involved in the dispute.

(c) No obligations of either Party which arose before the Force Majeure occurrence causing the suspension of performance shall be excused as a result of the event of Force Majeure.

(d) Prior to the resumption of performance suspended as a result of a Force Majeure occurrence, the Party claiming the Force Majeure shall give the other Party written notice of such resumption.

### **ARTICLE 13. WAIVERS**

No delay or omission in the exercise of any right under this Agreement shall impair any such right or shall be taken, construed or considered as a waiver or relinquishment thereof, but any such right may be exercised from time to time and as often as may be deemed expedient. The waiver of any single breach or default of any term or condition of this Agreement shall not be deemed to constitute the waiver of any other prior or subsequent breach or default of the Agreement or any other term or condition.

### **ARTICLE 14. LAWS AND REGULATIONS**

(a) This Agreement and all rights, obligations, and performances of the Parties hereunder, are subject to all applicable federal and state laws, and to all duly promulgated orders and other duly authorized action of governmental authorities having jurisdiction hereof.

(b) The rates, terms and conditions contained in this Agreement are not subject to change under Section 205 of the Federal Power Act as that section may be amended or superseded, absent the mutual written agreement of the Parties. Each Party irrevocably waives its rights, including its rights under §§ 205-206 of the Federal Power Act, unilaterally to seek or support a change in the rate(s), charges, classifications, terms or conditions of this Agreement or any other agreements entered into in connection with this Agreement. By this provision, each Party expressly waives its right to seek or support: (i) an order from the Commission finding that the market-based rate(s), charges, classifications, terms or conditions agreed to by the Parties in the Agreement are unjust and unreasonable; or (ii) any refund with respect thereto. Each Party agrees not to make or support such a filing or request, and that these covenants and waivers shall be binding notwithstanding any regulatory or market changes that may occur hereafter.

(c) Absent the agreement of all Parties to a proposed change, the standard of review for changes to this Agreement proposed by a non-party or the Commission acting sua sponte shall be the "public interest" standard of review set forth in United Gas Pipe Line Co. v. Mobile Gas Service Corp., 350 U.S. 332 (1956) and Federal Power Commission v. Sierra Pacific Power Co., 350 U.S. 348 (1956) (the "Mobile-Sierra" doctrine).

### **ARTICLE 15. INTERPRETATION, DISPUTE RESOLUTION**

#### **Section 15.1 Governing Law**

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The Agreement shall be governed by and construed and performed in accordance with and the laws of the Commonwealth of Massachusetts, without giving effect to its conflict of laws principles.

### **Section 15.2 Dispute Resolution**

Unless the Parties otherwise agree, all disputes not related to an event or circumstance giving rise to an Event of Default between the Buyer and Seller under this Agreement shall be referred, upon notice by one Party to the other Party, to a senior manager of Seller designated by Seller, and a senior manager of the Buyer designated by the Buyer, for resolution on an informal basis as promptly as practicable; provided, however, that in the event that a Party determines in good faith and upon written notice to the other Party that any such delay for dispute resolution would materially prejudice its financial position with respect to the Agreement or in the reasonable opinion of the Party, a material change has occurred in the creditworthiness, financial condition or ongoing business of the other Party that may adversely affect the Party's ability to perform under this Agreement, then such Party may resort to its legal remedies hereunder without resort to any such dispute resolution. In the event the designated senior managers are unable to resolve the dispute within ten (10) days of receipt of the Notice, or such other period to which the Parties may jointly agree, the Parties may pursue any legal course of action or claim with either the Federal Energy Regulatory Commission or a court having competent jurisdiction or seek any legal or equitable remedies that may be available in accordance with the terms of this Agreement.

### **Section 15.3 Venue; Waiver of Jury Trial**

Each Party hereto irrevocably (i) submits to the exclusive jurisdiction of the federal and state courts located in the Commonwealth of Massachusetts; (ii) waives any objection which it may have to the laying of venue of any proceedings brought in any such court; and (iii) waives any claim that such proceedings have been brought in an inconvenient forum. EACH PARTY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY SUIT, ACTION OR PROCEEDING RELATING TO THIS AGREEMENT.

## **ARTICLE 16. SEVERABILITY**

Any provision declared or rendered unlawful by any applicable court of law or regulatory agency or deemed unlawful because of a statutory change will not otherwise affect the remaining provisions and lawful obligations that arise under this Agreement. If any provision of this Agreement, or the application thereof to any Party or any circumstance, is invalid or unenforceable, (a) a suitable and equitable provision shall be substituted therefor in order to carry out, so far as may be valid and enforceable, the intent and purpose of such invalid or unenforceable provision, and (b) the remainder of this Agreement and the application of such provision or circumstances shall not be affected by such invalidity or unenforceability.

## **ARTICLE 17. MODIFICATIONS**

## **REDACTED DOCUMENT**

No modification or amendment of this Agreement will be binding on any Party unless it is in writing and signed by both Parties.

### **ARTICLE 18. ENTIRE AGREEMENT**

This Master Power Agreement, including the Appendices, any Confirmations relating to specific Transactions, the tariffs and agreements referred to herein or therein, embody the entire agreement and understanding of the Parties in respect of the transactions contemplated by this Agreement. There are no restrictions, promises, representations, warranties, covenants or undertakings, other than those expressly set forth or referred to herein or therein. It is expressly acknowledged and agreed that there are no restrictions, promises, representations, warranties, covenants or undertakings contained in any material provided or otherwise made available by the Seller or the Buyer to each other. This Agreement supersedes all prior agreements and understandings between the Parties with respect to the transactions contemplated hereby and specifically excludes written agreements executed by the Parties prior to the Effective Date.

### **ARTICLE 19. COUNTERPARTS**

This Agreement may be executed in any number of counterparts, and each executed counterpart shall have the same force and effect as an original instrument.

### **ARTICLE 20. INTERPRETATION; CONSTRUCTION**

The article and section headings contained in this Agreement are solely for the purpose of reference, are not part of the agreement of the Parties and shall not in any way affect the meaning or interpretation of this Agreement. For purposes of this Agreement, the term "including" shall mean "including, without limitation". The Parties acknowledge that, each Party and its counsel have reviewed and or revised this Agreement and that any rule of construction to the effect that any ambiguities are to be resolved against the drafting Party shall not be employed in the interpretation of this Agreement, and it is the result of joint discussion and negotiation.

### **ARTICLE 21. REPRESENTATIONS; WARRANTIES AND COVENANTS**

Each Party represents to the other Parties, upon execution and continuing throughout the term of this Agreement, as follows:

(a) It is duly organized in the form of business entity set forth in the first paragraph of this Agreement, validly existing and in good standing under the laws of its state of its organization and has all requisite power and authority to carry on its business as is now being conducted, including all regulatory authorizations as necessary for it to legally perform its obligations hereunder.

(b) It has full power and authority to execute and deliver this Master Power Agreement and any and all Confirmations related to Transactions and to consummate and perform the transactions contemplated hereby. This Master Power Agreement has been, and any Confirmation will be, duly and validly executed and delivered by it, and, assuming that this

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Master Power Agreement, together with any and all Confirmations, constitutes a valid and binding agreement of the other Parties, constitute together its valid and binding agreement, enforceable against it in accordance with its terms, subject to bankruptcy, insolvency, fraudulent transfer, reorganization, moratorium and similar laws of general applicability relating to or affecting creditors' rights and to general equity principles.

(c) Such execution, delivery and performance do not violate or conflict with any law applicable to it, any provision of its constitutional documents, or the terms of any note, bond, mortgage, indenture, deed of trust, license, franchise, permit, concession, contract, lease or other instrument to which it is bound, any order or judgment of any court or other agency of government applicable to it or any of its assets or any contractual restriction binding on or affecting it or any of its assets.

(d) No declaration, filing with, notice to, or authorization, permit, consent or approval of any governmental authority is required for the execution and delivery of this Master Power Agreement or any and all Confirmations related to a Transaction by it or the performance by it of its obligations hereunder and thereunder, other than such declarations, filings, registrations, notices, authorizations, permits, consents or approvals which, if not obtained or made, will not, in the aggregate, have a Material Adverse Effect.

(e) Neither the execution and delivery of this Master Power Agreement or any and all Confirmations by it, nor the performance by it of its obligations under this Master Power Agreement and any and all Confirmations related to Transactions, will or does (i) conflict with or result in any breach of any provision of its Governing Documents, (ii) result in a default (or give rise to any right of termination, cancellation or acceleration) under any of the terms, conditions or provisions of any note, bond, mortgage, indenture, license, agreement or other instrument or obligation to which it or any of its subsidiaries is a party or by which it or any of its subsidiaries is bound, except for such defaults (or rights of termination, cancellation or acceleration) as to which requisite waivers or consents have been obtained or which, in the aggregate, would not have a Material Adverse Effect; or (iii) violate any order, writ, injunction, decree, statute, rule or regulation applicable to it, which violation would have a Material Adverse Effect.

(f) There are no claims, actions, proceedings or investigations pending or, to its knowledge, threatened against or relating to it before any governmental authority acting in an adjudicative capacity relating to the transactions contemplated hereby that could have a Material Adverse Effect. It is not subject to any outstanding judgment, rule, order, writ, injunction or decree of any court or governmental authority which, individually or in the aggregate, would create a Material Adverse Effect.

(g) There are no bankruptcy, insolvency, reorganization, receivership or other similar proceedings pending or being contemplated by it, or of its knowledge threatened against it.

(h) With respect to Seller, (i) it and the ISO have fully executed a Market Participant Service Agreement ("Seller's MPSA"), and it has been approved by the Commission in accordance with Subsection 7.1 of the MPSA with the ISO and (ii) the ISO has not filed with the Commission a notice of termination of Seller's MPSA.

(i) It is acting for its own account, has made its own independent decision to enter into this Master Power Agreement and any and all Confirmations related to a Transaction and as to whether this Master Power Agreement and any such Confirmation is appropriate or proper for

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it based upon its own judgment, is not relying upon the advice or recommendations of the other Party hereto, and is capable of assessing the merits of and understanding, and understands and accepts, the terms, conditions and risks of this Master Power Agreement and any such Confirmation or Transaction.

### **ARTICLE 22. CONSENTS AND APPROVALS**

The Parties shall cooperate so that each Party may take such actions as necessary and required for the other Party to effectuate and comply with this Agreement including to (i) promptly prepare and file all necessary documentation, (ii) effect all necessary applications, notices, petitions and filings and execute all agreements and documents, and (iii) use all commercially reasonable efforts to obtain all necessary consents, approvals and authorizations of all other entities, in the case of each of the foregoing clauses (i), (ii) and (iii), necessary or advisable to consummate the transactions contemplated by this Agreement. The Buyer shall have the right to review and approve in advance all characterizations of the information relating to the transactions contemplated by this Agreement which appear in any filing, press release or public announcement made in connection with the transactions contemplated hereby.

### **ARTICLE 23. CONFIDENTIALITY**

Neither Seller nor the Buyer shall provide copies of or disclose the contents or terms of Appendix C (Guarantee), Article 7 and Section 10.2 of this Master Power Agreement, and Buyer shall not disclose the identity of Seller (the “Confidential Terms”) to any third party without the prior written consent of the other Party; provided, however, that either Party may provide a copy of the Confidential Terms, in whole or in part to (1) any regulatory agency requesting and/or requiring such Confidential Terms, provided that any such disclosure must include a request for confidential treatment of the Confidential Terms, and (2) an Affiliate if related to the Party’s performance of its obligations hereunder, provided that such Affiliate agrees to treat the Confidential Terms as confidential in accordance with this clause, and (3) the ISO or NEPOOL as may be necessary to facilitate the implementation of the Agreement.

### **ARTICLE 24. TITLE TRANSFER**

Title to and risk of loss related to the Requirements shall transfer from Seller to the Buyer at the Delivery Point. The word “loss” in this paragraph (Title Transfer) does not encompass electrical transmission and distribution losses.

**[Remainder of Page Intentionally Left Blank]**

**REDACTED DOCUMENT**

IN WITNESS WHEREOF, the Parties have caused their duly authorized representatives to execute this Master Power Agreement on their behalf as of the date first above written.

**MASSACHUSETTS ELECTRIC COMPANY**

\_\_\_\_\_  
Name (print): \_\_\_\_\_  
Title: \_\_\_\_\_

**NANTUCKET ELECTRIC COMPANY**

\_\_\_\_\_  
Name (print): \_\_\_\_\_  
Title: \_\_\_\_\_

\_\_\_\_\_  
Name (print): \_\_\_\_\_  
Title: \_\_\_\_\_



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**APPENDIX A**  
**ESTIMATION OF SELLER HOURLY LOADS**

**Overview**

Generating units operated by suppliers are dispatched by the power pool to meet the region's electrical requirements reliably, and at the lowest possible cost. As a result, a supplier's electricity production may not match the demand of its customers. In each hour some suppliers with low cost production units or that contract for the output of such units are net sellers of electricity to the pool, while other suppliers are purchasing power from the pool to meet the demand of their customers. To determine the extent to which suppliers are net buyers or sellers on an hourly basis, it is necessary to estimate the hourly aggregate demand for all of the customers served by each supplier. The Buyer will estimate Seller's Default Service load obligations within the Buyer's service territory and report the hourly results to the ISO on a daily basis.

The estimation process is a cost-effective approach to producing results that are reliable, unbiased and reasonably accurate. The hourly load estimates will be based on rate class load profiles, which will be developed from statistically designed samples. Each day, the class load shapes will be scaled to the population of customers served by each supplier. In cases where telemetered data on individual customers is available, it will be used in place of the estimated shapes. On a monthly basis, the estimates will be refined by incorporating actual usage data obtained from meter readings. In both processes, the sum of all suppliers' estimated loads will match the total load delivered into the distribution system. A description of the estimation process follows.

**Daily Estimation of Suppliers' Own Load**

The daily process estimates the hourly load for each supplier for the previous day. The following is an outline of this process:

- Select a proxy date from the previous year with characteristics which best match the day for which the hourly demand estimates are being produced. Extract class load shapes for the selected proxy date from the load research database.
- Scale the class load shapes appropriately for each individual customer based on the usage level of the customer relative to the class average usage level.
- Calculate a factor for each customer which reflects their relative usage level and includes an adjustment for losses ("load adjustment factor"). Aggregate the load adjustment factors across the customers served by each supplier in each class.
- Produce a preliminary estimate of each supplier's hourly loads by combining the proxy day class load shapes with the supplier's total load adjustment factors. Aggregate the loads across the classes for each supplier.

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- Adjust the preliminary hourly supplier estimates so that their sum is equal to the Buyer's actual hourly metered loads (as metered at the point of delivery to the distribution system) by allocating any differences to suppliers in proportion to their estimated load.
- Adjust the hourly supplier estimates to include transmission losses within the Buyer's transmission system.
- Submit the hourly loads to the ISO.

After the Buyer has submitted the supplier hourly loads, the ISO will allocate PTF losses to the supplier's account during the settlement process.

### **Monthly Reconciliation Process**

The monthly process will improve the estimates of supplier loads by incorporating the most recent customer usage information, which will be available after the monthly meter readings are processed. The actual customer meter readings, as well as actual interval data for the largest customers, are used to re-estimate all of the days in the calendar month being reconciled. Updates to customers' account status and supplier assignments that may have been missed during the daily processing (due to timing) are included. The resulting hourly supplier load estimates for all the days in the month are reported and used by the ISO as the basis for the monthly resettlement.

**REDACTED DOCUMENT**  
**APPENDIX B**  
**MASTER POWER AGREEMENT**  
**FORM OF CONFIRMATION**

This Confirmation shall confirm the Transaction agreed to on, and effective as of \_\_\_\_\_, between **MASSACHUSETTS ELECTRIC COMPANY** (“MECo”), a Massachusetts corporation, **NANTUCKET ELECTRIC COMPANY** (“Nantucket”), a Massachusetts corporation (MECo and Nantucket together “Mass. Electric” or “Buyer”), and each shall be severally and not jointly liable hereunder, and \_\_\_\_\_ corporation, regarding the sale/purchase of Default Service specified herein under the terms and conditions under the Master Power Agreement, dated [ ] (the “Master Power Agreement”) between Buyer and Seller, as specified and modified herein. Terms used but not defined herein shall have the meanings ascribed to them in the Master Power Agreement.

**1. Default Service Requirements Matrix**

<b>Award Block</b>	<b>Customer Group</b>	<b>Load Zone</b>	<b>Load Responsibility</b>	<b>Commencement Date</b>	<b>Conclusion Date</b>
TBD	TBD	TBD	TBD	TBD	TBD

**2. Contract Rate - \$/MWh**

<b>Award Block</b>	<b>Customer Group</b>	<b>Load Zone</b>	<b>Month1</b>	<b>Month2</b>	<b>Month3</b>	<b>Month4</b>	<b>Month5</b>	<b>Month6</b>
TBD	TBD	TBD	TBD	TBD	TBD	TBD	TBD	TBD

**3. Load Asset Designation within the ISO Settlement Market System**

<b>Award Block</b>	<b>Customer Group</b>	<b>Load Zone</b>	<b>Load Asset Number</b>	<b>Load Asset Name</b>
TBD	TBD	TBD	TBD	TBD

**4. RPS Requirement**

[To be determined for each Transaction]

**5. Amount Payable**

[To be determined for each Transaction]

**6. Modifications to the Master Power Agreement**

[To be determined for each Transaction]

**7. Security**

## **REDACTED DOCUMENT**

[To be determined for each Transaction]

### **8. Confidentiality**

Articles 1, 2, 3 [additional articles to be determined for each Transaction] of this Confirmation are Confidential Terms within the meaning of Article 23 of the Master Power Agreement.

### **9. Ratification of the Terms and Conditions of the Agreement**

(a) Except as expressly amended or waived by this Confirmation, the terms, conditions, covenants, agreements, warranties and representations contained in the Master Power Agreement are in all respects ratified, confirmed and remade as of the date hereof and, except as amended or waived hereby, shall continue in full force and effect.

(b) Nothing in this Confirmation shall, or shall be construed to, alter or amend any other Confirmation.

### **10. Counterparts**

This Confirmation may be executed in counterparts, all of which together shall constitute one and the same instrument.

This Confirmation constitutes part of and is subject to the terms and provisions of such Master Power Agreement.

**Remainder of Page Intentionally Left Blank**

**REDACTED DOCUMENT**

IN WITNESS WHEREOF, the Parties have caused their duly authorized representatives to execute this Confirmation on their behalf as of the date first above written

**MASSACHUSETTS ELECTRIC COMPANY**

\_\_\_\_\_  
Name (print):\_\_\_\_\_  
Title: \_\_\_\_\_

**NANTUCKET ELECTRIC COMPANY**

\_\_\_\_\_  
Name (print):\_\_\_\_\_  
Title: \_\_\_\_\_

\_\_\_\_\_  
Name (print):\_\_\_\_\_  
Title: \_\_\_\_\_

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**APPENDIX C**

**FORM OF GUARANTY**

**GUARANTEE**

**MASTER POWER AGREEMENT  
CONFIRMATION**

This Confirmation shall confirm the Transaction agreed to on December 15, 2005 (execution date), and effective as of the Confirmation Effective Date (as defined below), between **MASSACHUSETTS ELECTRIC COMPANY**, a Massachusetts corporation (“**Buyer**”) and \_\_\_\_\_ corporation, regarding the sale/purchase of Default Service specified herein under the terms and conditions under the Master Power Agreement, dated July 11, 2005 (the “**Master Power Agreement**”) between Buyer and Seller, as specified and modified herein. Terms used but not defined herein shall have the meanings ascribed to them in the Master Power Agreement.

- 1. Confirmation Effective Date; Condition Precedent; Filing Obligation; Term**
- 2. Default Service Requirements Matrix**
- 3. Contract Rate - \$/MWh**
- 4. Load Asset Designation within the ISO Settlement Market System**
- 5. RPS Requirement**
- 6. Amount Payable**

The amount payable by Buyer to Seller shall be:
- 7. Modifications to the Master Power Agreement**
- 8. Security**
- 9. Ratification of the Terms and Conditions of the Agreement**

(a) Except as expressly amended or waived by this Confirmation, the terms, conditions, covenants, agreements, warranties and representations contained in the Master Power Agreement are in all respects ratified, confirmed and remade as of the date hereof and, except as amended or waived hereby, shall continue in full force and effect.

**REDACTED DOCUMENT**

Massachusetts Electric Company

Master Power Agreement Confirmation

December 15, 2005

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(b) Nothing in this Confirmation shall, or shall be construed to, alter or amend any other Confirmation.

**10. Counterparts**

This Confirmation may be executed in counterparts, all of which together shall constitute one and the same instrument.

This Confirmation constitutes part of and is subject to the terms and provisions of such Master Power Agreement.

IN WITNESS WHEREOF, the Parties have caused their duly authorized representatives to execute this Confirmation on their behalf as of the date first above written

**MASSACHUSETTS ELECTRIC COMPANY**

\_\_\_\_\_

Name (print): \_\_\_\_\_

Title: \_\_\_\_\_

\_\_\_\_\_

Name (print): \_\_\_\_\_

Title: \_\_\_\_\_



**MASTER POWER AGREEMENT**

This **MASTER POWER AGREEMENT** ("Master Power Agreement") is dated as of March 16, 2005 (the "Effective Date") and is by and between **MASSACHUSETTS ELECTRIC COMPANY**, a Massachusetts corporation ("Buyer"), and ("Seller"). The Buyer and Seller are referred to herein individually as a "Party" and collectively as the "Parties."

**ARTICLE 1. BASIC UNDERSTANDINGS**

Seller and Buyer have agreed to execute this Master Power Agreement in order to establish the basic terms of Seller's provision and sale of, and Buyer's acceptance and purchase of, Default Service. This Master Power Agreement, together with the Appendices and written supplements (including any Confirmations) hereto, and any designated collateral, credit support or margin agreement or similar arrangement between the Parties regarding the Transactions (as defined in Article 2), shall be referred to as the "Agreement" and shall constitute the entire agreement between the Parties relating to the subject matter hereof and supersedes any other agreements, written or oral, between the Parties concerning such subject matter but specifically excluding written agreements executed by the Parties prior to the Effective Date.

**ARTICLE 2. DEFINITIONS**

**ARTICLE 3. TERM, SERVICE PROVISIONS AND REGISTRATION REQUIREMENTS**

Section 3.1 Term

The term of this Master Power Agreement (the "Term") shall commence on the Effective Date and shall remain in effect until terminated by either Party upon thirty (30) days' prior written notice; provided, however, that such termination shall not affect or excuse the performance of either Party under any provision of this Master Power Agreement that by its terms survives any such termination and, provided further, that this Master Power Agreement and any other documents executed and delivered hereunder shall remain in effect with respect to the Transaction(s) entered into prior to the effective date of such termination until both Parties have fulfilled all of their obligations with respect to such Transaction(s), or such Transaction(s) have been terminated under Section 7.2 of this Master Power Agreement. As of the termination of this Master Power Agreement, subject to the immediately foregoing sentence, the Parties shall no longer be bound by the terms and provisions hereof, except (a) to the extent necessary to enforce the rights and obligations of the Parties arising under this Master Power Agreement before such expiration or termination or (b) that such terms and provisions expressly or by their operation survive the termination or expiration of this Master Power Agreement.

**Section 3.2    Commencement of Electricity Supply**

(a) Beginning as of the Commencement Date for each specific Customer Group on a specific Transaction, Seller shall provide the applicable Requirements to the Buyer. For purposes of certainty: Seller's obligations on the Commencement Date shall be to provide such Requirements for all Default Service Customers identified in the related Confirmation taking service pursuant to the Default Service Tariff as of and including the Commencement Date.

(b) With respect to each person or entity that becomes a Default Service Customer subsequent to the applicable Commencement Date, Seller shall provide Requirements to the Buyer to meet the needs of the Default Service Customer(s) as of and including the Initiation Date for such customer initiating such service during the applicable Delivery Term.

(c) If Seller elects to receive electronic notification as provided in Section 3.7, the Buyer shall provide to Seller a notice of Initiation Date via electronic file transfer and in a format specified by the Buyer. Each notice of Initiation Date shall include the account number, the date Seller's service to the Buyer is to begin for a Default Service Customer and the customer's rate class.

**Section 3.3    Termination and Conclusion of Electricity Supply**

(a) With respect to each Default Service Customer that terminates Default Service, during the applicable Delivery Term, Seller shall cease providing Requirements to the Buyer for such customer after the Customer Termination Date.

(b) If Seller elects to receive electronic notification as provided in Section 3.7, the Buyer shall provide to Seller a notice of Customer Termination Date via electronic file transfer and in a format specified by the Buyer. Each notice of Customer Termination Date shall include the account number, the Customer Termination Date and the customer's rate class.

(c) Seller's obligation to provide Requirements with respect to each specific Customer Group on a specific Transaction shall cease on the applicable Conclusion Date.

**Section 3.4    Customer Disconnection Date**

(a) With respect to each Default Service Customer whose Default Service is disconnected during the applicable Delivery Term, Seller shall cease providing the applicable Requirements to the Buyer for such customer after the Customer Disconnection Date.

(b) If Seller elects to receive electronic notification as provided in Section 3.7, the Buyer shall provide to Seller a notice of Customer Disconnection Date via electronic file transfer and in a format specified by the Buyer. Each notice of Customer Disconnection Date shall include the account number, the Customer Disconnection Date and the customer's rate class.

**3.5 Distribution Service Interruptions**

Seller acknowledges that interruptions in distribution service occur and may reduce the load served hereunder. Seller further acknowledges and agrees that the Buyer may interrupt distribution service to customers consistent with the Distribution Service Terms and the Competitive Supplier Terms. In no event shall a Party have any liability or obligation to another Party in respect of any such interruptions in distribution service.

**3.6 Release of Customer Information**

The Buyer will not issue any customer information to Seller unless Seller has first obtained the necessary authorization in accordance with the provisions of the Competitive Supplier Terms.

**3.7 Electronic Notification**

At Seller's election, the Buyer shall provide notices contemplated by Sections 3.2, 3.3, and 3.4 via electronic file transfer. Such election shall only be effective when Seller (i) establishes an account on the Advantis Value Added Network ("VAN"), and (ii) verifies its ability to transfer files to and receive files from the Buyer at least fourteen (14) days prior to the day on which Seller desires to commence electronic receipt. Seller shall bear all costs to establish an account and all costs of Seller and the Buyer to use the VAN. If Seller fails to pay all VAN costs and charges when due and payable, Seller's election shall not be valid and the Buyer shall no longer be obligated to provide electronic notification.

**3.8 Change in Supply; No Prohibition on Programs**

(a) Seller acknowledges and agrees that the number of Default Service Customers and the Requirements to meet the needs of such Default Service Customers will fluctuate throughout the Delivery Term and may equal zero. Buyer shall not be liable to Seller for any losses Seller may incur, including but not limited to lost revenues, and losses that may result from any change in Requirements, number or location of Default Service Customers taking service, the location of the Delivery Point(s), the composition of market products or the market for electricity, or change in the Distribution Service Terms or the Default Service Tariff. Seller further acknowledges and agrees that there is no limit on the number of Customer Initiation Dates, Customer Termination Dates and Customer Disconnection Dates.

(b) Seller acknowledges and agrees that the Buyer shall have the right but not the obligation to continue, initiate, support or participate in any programs, promotions, or initiatives designed to or with the effect of encouraging Default Service Customers to leave Default Service for any reason ("Programs"). Nothing in this Agreement shall be construed to require notice to or approval of Seller in order for the Buyer to take any action in relation to Programs.

(c) Seller acknowledges and agrees that the Buyer and Affiliates of the Buyer will not provide Seller preferential access to or use of the Buyer's System and that Seller's sole and exclusive rights and remedies with regard to access to, use or availability of the Buyer's System, and the

Buyer's or Affiliates of the Buyer's obligation to transmit electricity are those rights, remedies and obligations provided under the Distribution Service Terms, the NEPOOL Agreement and the Market Rules and Procedures.

**3.9 Uniform Disclosure Requirements**

Seller shall provide the Buyer information pertaining to power plant emissions, fuel types, labor information and any other information required by the Buyer to comply with the uniform disclosure requirements contained in 220 CMR 11.00 and any other disclosure regulations which may be imposed upon the Buyer during the term of this Agreement, as such disclosure requirements apply to Default Service provided by Seller pursuant to this Agreement.

Seller shall utilize the NE-GIS to transfer Load Obligations to the Buyer's certificate account in the number equal to the Delivered Energy for Default Service, if any, in a month during the term of a Transaction. Seller shall also utilize the NE-GIS to transfer NE-GIS Certificates to the Buyer's certificate account in an amount equal to the Delivered Energy for Default Service, if any, for each month during the term of a Transaction; provided, that the Companies shall accept any combination of NE-GIS Certificates regardless of source. Such Load Obligations or NE-GIS Certificates, as applicable, shall be delivered by Seller at least five (5) Business Days prior to the close of the applicable Trading Period. The Load Obligations or NE-GIS Certificates, as applicable, shall be delivered by Seller to an account within the NE-GIS designated by the Buyer.

**ARTICLE 4. SALE AND PURCHASE**

**ARTICLE 5. AMOUNT, BILLING and PAYMENT**

**Section 5.1 Amount**

The amount payable by the Buyer to Seller shall be the sum of the amounts for all applicable Transactions.

**Section 5.2 Billing and Payment**

(a) On or before the tenth (10th) day of each month during the Term, Seller shall calculate the amount due and payable to Seller for Delivered Energy with respect to the preceding month (the "Calculation"). Seller shall provide the Calculation to the Buyer and such Calculation shall include sufficient detail for the Buyer to verify its formulation and computation. Calculations under this paragraph shall be subject to recalculation in accordance with Article 6 and shall be subject to adjustment (positive or negative) based upon such recalculation (a "Reconciliation Adjustment"). Seller shall promptly calculate the Reconciliation Adjustment upon receiving data described in Section 6.3 and shall include the adjustment, if any, in the next month's Invoice. A Reconciliation Adjustment based upon a change in the quantity for an earlier month shall be

calculated using the applicable Contract Rate for the month in which the Delivered Energy was received.

(b) Seller shall submit to the Buyer an invoice with such Calculation as provided for in paragraph (a) of this Section (the “Invoice”) and the respective amounts due under this Agreement not later than the tenth (10<sup>th</sup>) day of each month. The Buyer shall pay Seller the amount of the Invoice (including the Reconciliation Adjustment, if any, as a debit or credit) less any amounts disputed in accordance with Section 5.3, on or before the later of the (i) tenth (10<sup>th</sup>) day after receiving the Invoice, and (ii) the twenty-fifth (25<sup>th</sup>) day of the month in which such Invoice was received (the “Due Date”). Except for amounts disputed in accordance with Section 5.3, if all or any part of the Invoice remains unpaid after the Due Date, interest shall accrue after but not including the Due Date and be payable to Seller on such unpaid amount at the Interest Rate in effect on the Due Date. The Due Date for a Reconciliation Adjustment shall be the Due Date of the Invoice in which it is included.

(c) Each Party shall notify the other Party upon becoming aware of an error in an Invoice, Calculation or Reconciliation Adjustment (whether the amount is paid or not) and Seller shall promptly issue a corrected Invoice. Overpayments shall be returned by the receiving Party upon request or deducted by the receiving Party from subsequent invoices, with interest accrued at the Interest Rate from the date three Business Days after the receipt of the notice of overpayment until the date overpayment is reimbursed or deducted.

#### **Section 5.3    Challenge to Invoices**

Unless otherwise agreed: (i) either Party may challenge, in writing, the accuracy of Calculations, Invoices, Reconciliation Adjustments and data no later than twenty-four (24) months after the Due Date of the Invoice in which the disputed information is contained; (ii) if a Party does not challenge the accuracy within such twenty-four (24) month period, such Invoice shall be binding upon that Party and shall not be subject to challenge. With respect to amounts paid that are later disputed, upon notice of dispute, the Party receiving payment shall hold the amount in dispute in escrow for the benefit of the prevailing Party until the resolution of such dispute. If any amount in dispute is ultimately determined (under the terms herein) to be due to the other Party, it shall be paid or returned (as the case may be) to the other Party within three (3) Business Days of such determination along with interest accrued at the Interest Rate from the (i) date due and owing in accordance with the Invoice until the date paid or (ii) if the amount was paid and is to be returned, from the date paid, until the date returned.

#### **Section 5.4    Taxes, Fees and Levies**

Subject to the immediately following sentence, Seller shall be obligated to pay all present and future taxes, fees and levies (“Taxes”) which may be assessed by any entity upon the Seller's performance under this Agreement including but not limited to the purchase and sale of electricity and MA New Renewable Generation Certificates. Seller shall pay all Taxes with respect to the Requirements up to the Delivery Point, and the Buyer will pay all Taxes with respect to the Requirements at and after the Delivery Point. All Requirements, including electricity and other

related market products delivered hereunder by Seller to the Buyer shall be sales for resale with the Buyer reselling such electricity and products.

If any new obligations are imposed by state law on or after the Effective Date in connection with the retail sale of electric energy to Default Service Customers, Seller shall have no obligation to the Buyer under this Agreement for such new obligations.

**Section 5.5    Netting and Setoff**

Except for any security provided pursuant to this Agreement (which shall not be considered for purposes of this Section 5.5) and unless otherwise specified in another agreement between the Parties, if the Parties are required to pay an amount in the same month each to the other under this Agreement or any other agreement between the Parties, or if any costs that are a Party's responsibility under this Agreement are incorrectly or inappropriately charged to the Party by the ISO, such amounts shall be netted, and the Party owing the greater aggregate amount shall pay to the other Party any difference between the amounts owed. Each Party reserves all rights, setoffs, counterclaims and other remedies and defenses (to the extent not expressly herein or therein waived or denied) that such Party has or to which such Party may be entitled arising from or out of this Agreement or the other agreement. Further, if the Buyer incurs any costs or charges that are the responsibility of Seller under this Agreement, such costs or charges may, at the Buyer's election, be netted against any amount due to Seller under this Agreement. All outstanding obligations to make payment under this Agreement or any other agreement between the Parties may be netted against each other, set off or recouped there from, or otherwise adjusted.

**ARTICLE 6.            QUALITY; LOSSES and QUANTITIES REQUIRED;  
DETERMINATION AND REPORTING OF HOURLY LOADS**

**Section 6.1    Quality**

All electricity shall be delivered to the Buyer in the form of three-phase sixty-hertz alternating current at the applicable Delivery Point.

**Section 6.2    Losses**

Seller shall be responsible for all transmission and distribution losses and the costs related to such losses and associated with the Requirements, namely, losses from the applicable Delivery Point to the meters of the Default Service Customers. Seller shall provide to the Buyer at the applicable Delivery Point quantities of electricity and ancillary services, capacity and all other market products related thereto to cover such losses from the applicable Delivery Point to the meters of Default Service Customers. The quantities required for this purpose in each hour of a billing period shall be determined in accordance with NEPOOL's and the Buyer's procedures for loss determination.

**Section 6.3     Determination and Reporting of Hourly Loads**

(a) The Buyer will estimate the Delivered Energy for Default Service provided by Seller pursuant to each Transaction based upon average load profiles developed for each of the Buyer's customer classes and the Buyer's actual total hourly load. The Buyer shall report both to the ISO and to the Seller the estimated Delivered Energy for each Transaction. The Buyer will normally report to the ISO and to Seller Seller's estimated Delivered Energy by 1:00 P.M. EPT of the second following Business Day after delivery. Appendix A provides a general description of the estimation process that the Buyer will initially employ (the "Estimation Process"). The Buyer shall have the right, but not the obligation, in its sole and exclusive judgment, to modify the Estimation Process from time to time, provided that any such modification is designed with the objective of improving the accuracy of the Estimation Process.

Each month, the Buyer shall reconcile the Buyer's estimate of the Delivered Energy for each Transaction based upon the Buyer's meter reads (such meter reads as provided for in the Distribution Service Terms). The reconciliation, including all losses, shall be the adjusted Delivered Energy. The Buyer will normally notify the ISO of any resulting adjustment (debit or credit) to Seller's account for the Load Assets identified in a specific Transaction no later than the last day of the third month following the billing month. Appendix A provides a general description of this reconciliation process, which process may be changed by the Buyer from time to time in its sole and exclusive discretion, provided that such changes are not inconsistent with the Market Rules and Procedures.

**Section 6.4     ISO Settlement Market System Implementation**

As soon as possible after the execution of a Confirmation related to a specific Transaction and before the applicable Commencement Date, the Buyer shall assign to Seller, and Seller shall accept assignment of an Ownership Share for each Load Asset identified in such Confirmation. Such assignment shall be effective beginning on the applicable Commencement Date. Seller shall maintain such ownership until the Conclusion Date (or, if earlier, the termination date for the Terminated Transactions, established in accordance with 7.2(a)). Seller shall take any and all actions necessary to effectuate such assignment and, if applicable in accordance with the foregoing, transfer, including executing documents required by the ISO. Once Seller's provision of Default Service terminates (effective the date after the applicable Conclusion Date or, if earlier, the termination date for the Terminated Transactions, established in accordance with 7.2(a)), the Buyer will terminate Seller's Ownership Shares of the aforementioned Load Assets.

The Buyer shall have the right to change the Load Asset designations (identified above) from time to time, consistent with the definition and provision of Default Service. If and to the extent such designations change, the Buyer and Seller shall cooperate to timely put into effect the necessary ISO Settlement Market System contracts that may be necessary to implement the new designations and terminate the prior designations.

**ARTICLE 7.             DEFAULT AND TERMINATION**

**ARTICLE 8. NOTICES, REPRESENTATIVES OF THE PARTIES**

Section 8.1 Notices

Any notice, demand, or request required or authorized by this Agreement to be given by one Party to another Party shall be in writing. It shall either be sent by facsimile (with receipt confirmed by telephone), courier, personally delivered (including overnight delivery service) or mailed, postage prepaid, to the representative of the other Party designated in accordance with this Article. Any such notice, demand, or request shall be deemed to be given (i) when sent by facsimile confirmed by telephone, (ii) when actually received if delivered by courier or personal delivery (including overnight delivery service) or (iii) seven (7) days after deposit in the United States mail, if sent by first class mail return receipt requested.

Notices and other communications by Seller to the Buyer shall be addressed to:

Mr. Michael J. Hager  
Vice President, Energy Supply – New England  
National Grid USA Service Company, Inc.  
55 Bearfoot Road  
Northborough, MA 01532  
(508) 421-7350 (phone)  
(508) 421-7335 (fax)

and

Notices concerning Article 7 shall also be sent to:

General Counsel  
National Grid USA Service Company, Inc.  
25 Research Drive  
Westborough, MA 01582  
(508) 389-9000 (phone)  
(508) 389-2605 (fax)

Notices and other communications by the Buyer to Seller shall be addressed to:

Any Party may change its representative or address for notices by written notice to the other Party; however such notice shall not be effective until it is received by the other Party.

Section 8.2 Authority of Representative

The Parties' representatives shall have full authority to act for their respective Party in all matters relating to the performance of this Agreement. Notwithstanding the foregoing, a Party's



representative shall not have the authority to amend, modify, or waive any provision of this Agreement unless they are duly authorized officers of their respective entities and such amendment, modification or waiver is made in accordance with Article 17.

**ARTICLE 9.           LIABILITY; INDEMNIFICATION; RELATIONSHIP OF PARTIES**

Section 9.1    Limitation on Consequential, Incidental and Indirect Damages

EXCEPT AS EXPRESSLY PROVIDED IN SECTION 9.2, TO THE FULLEST EXTENT PERMISSIBLE BY LAW, NEITHER THE BUYER NOR SELLER, NOR THEIR RESPECTIVE OFFICERS, DIRECTORS, AGENTS, EMPLOYEES, PARENT OR AFFILIATES, SUCCESSOR OR ASSIGNS, OR THEIR RESPECTIVE OFFICERS, DIRECTORS, AGENTS, OR EMPLOYEES, SUCCESSORS, OR ASSIGNS, SHALL BE LIABLE TO THE OTHER PARTY OR ITS PARENT, SUBSIDIARIES, AFFILIATES, OFFICERS, DIRECTORS, AGENTS, EMPLOYEES, SUCCESSORS OR ASSIGNS, FOR CLAIMS, SUITS, ACTIONS OR CAUSES OF ACTION FOR INCIDENTAL, INDIRECT, SPECIAL, PUNITIVE, MULTIPLE OR CONSEQUENTIAL DAMAGES (INCLUDING ATTORNEY'S FEES OR LITIGATION COSTS EXCEPT AS EXPRESSLY PROVIDED IN SECTION 15.2) CONNECTED WITH OR RESULTING FROM PERFORMANCE OR NON-PERFORMANCE OF THIS AGREEMENT, OR ANY ACTIONS UNDERTAKEN IN CONNECTION WITH OR RELATED TO THIS AGREEMENT, INCLUDING WITHOUT LIMITATION ANY SUCH DAMAGES WHICH ARE BASED UPON CAUSES OF ACTION FOR BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE AND MISREPRESENTATION), BREACH OF WARRANTY, STRICT LIABILITY, STATUTE, OPERATION OF LAW, OR ANY OTHER THEORY OF RECOVERY. THE PROVISIONS OF THIS SECTION SHALL APPLY REGARDLESS OF FAULT AND SHALL SURVIVE TERMINATION, CANCELLATION, SUSPENSION, COMPLETION OR EXPIRATION OF THIS AGREEMENT.

Section 9.2    Indemnification

(a)     Seller agrees to defend, indemnify and save the Buyer, its officers, directors, employees, agents, successors assigns, and Affiliates and their officers, directors, employees and agents harmless from and against any and all third-party claims, suits, actions or causes of action and any resulting losses, damages, charges, costs or expenses, (including reasonable attorneys' fees and court costs), arising from or in connection with any (a) breach of a representation or warranty or failure to perform any covenant or agreement in this Agreement by Seller, (b) any violation of applicable law, regulation or order by Seller, (c) any act or omission by Seller with respect to this Agreement, first arising, occurring or existing during the term of this Agreement, whether incurred by settlement or otherwise, and whether such claims or actions are threatened or filed prior to or after the termination of this Agreement, except to the extent caused by an act of gross negligence or willful misconduct by an officer, director, agent, employee, or Affiliate of the Buyer or its respective successors or assigns.

(b)     The Buyer agrees to defend, indemnify and save Seller, its officers, directors, employees, agents, successor, assigns, and Affiliates and their officers, directors, employees and

agents harmless from and against any and all third-party claims, suits, actions or causes of action and any resulting losses, damages, charges, costs or expenses, (including reasonable attorneys' fees and court costs), arising from or in connection with any (a) breach of representation or warranty or failure to perform any covenant or agreement in this Agreement by said Buyer, (b) any violation of applicable law, regulation or order by said Buyer, (c) any act or omission by the Buyer, with respect to this Agreement first arising, occurring or existing during the term of this Agreement, whether incurred by settlement or otherwise, and whether such claims or actions are threatened or filed prior to or after the termination of this Agreement, except to the extent caused by an act of gross negligence or willful misconduct by an officer, director, agent, employee or Affiliate of Seller or its respective successors or assigns.

(c) If any Party intends to seek indemnification under this Section from the other Party with respect to any action or claim, the Party seeking indemnification shall give the other Party notice of such claim or action within thirty (30) days of the later of the commencement of, or actual knowledge of, such claim or action; provided, however, that in the event such notice is delivered more than thirty (30) days after the Party seeking indemnification knows of such claim or action, the indemnifying Party shall be relieved of its indemnity hereunder only if and to the extent such indemnifying Party was actually prejudiced by such delay. The Party seeking indemnification shall have the right, at its sole cost and expense, to participate in the defense of any such claim or action. The Party seeking indemnification shall not compromise or settle any such claim or action without the prior consent of the other Party, which consent shall not be unreasonably withheld.

### Section 9.3 Independent Contractor Status

Nothing in this Agreement shall be construed as creating any relationship between the Buyer and Seller other than that of independent contractors for the sale and delivery of Requirements for Default Service.

## **ARTICLE 10. ASSIGNMENT**

### Section 10.1 General Prohibition Against Assignments

Except as provided in Section 10.2, neither Party shall assign, pledge or otherwise transfer this Agreement or any right or obligation under this Agreement without first obtaining the other Party's written consent, which consent shall not be unreasonably withheld, conditioned or delayed.

### Section 10.2 Exceptions to Prohibition Against Assignments

(a) Seller may, without the Buyer's prior written consent, collaterally assign this Agreement in connection with financing arrangements provided that any such collateral assignment that provides for the Buyer to direct payments to the collateral agent (i) shall be in writing, (ii) shall not be altered or amended without prior written notice to the Buyer from both Seller and the collateral agent, and (iii) provided that any payment made by the Buyer to the collateral agent shall discharge the Buyer's obligation as fully and to the same extent as if it had been made to the Seller.

Seller must provide the Buyer at least ten (10) days advance written notice of collateral assignment and provide copies of any such assignment and relevant agreements or writings.

(b) Either Party may, upon written notice, assign its rights and obligations hereunder, or transfer such rights and obligations by operation of law, to any Affiliate or to any corporation or other entity with which or into which such Party shall merge or consolidate or to which such Party shall transfer all or substantially all of its assets, provided that such Affiliate or other entity agrees to be bound by the terms hereof and provided further, that such other Affiliate's or entity's creditworthiness is comparable to or higher than that of such Party at the time this Agreement was executed and such Party is not relieved of any obligation or liability hereunder as a result of such assignment.

#### **ARTICLE 11. SUCCESSORS AND ASSIGNS**

This Agreement shall inure to the benefit of and shall be binding upon the Parties hereto and their respective successors and permitted assigns.

#### **ARTICLE 12. FORCE MAJEURE**

(a) Force Majeure shall include but not be limited to acts of God, earthquakes, fires, floods, storms, strikes, labor disputes, riots, insurrections, acts of war (whether declared or otherwise), acts of governmental, regulatory or judicial bodies, but if and only to the extent that such event or circumstance (i) directly affects the availability of the transmission or distribution facilities of NEPOOL, the Buyer or an Affiliate of the Buyer necessary to provide service to the Buyer's customers which are taking service pursuant to the Default Service Tariff and (ii) it is not within the reasonable control of, or the result of the negligence of, the claiming Party, and which, by the exercise of due diligence, the claiming Party is unable to overcome or avoid or cause to be avoided. Force Majeure shall not be based on (A) fluctuations in Default Service, (B) the cost to a Party to overcome or avoid, or cause to be avoided, the event or circumstance affecting such Party's performance or (C) events affecting the availability or cost of operating any generating facility.

(b) To the extent that either Party is prevented by Force Majeure from carrying out, in whole or in part, its obligations hereunder and (i) such Party gives notice and detail of the Force Majeure to the other Party as soon as practicable after the onset of the Force Majeure, including an estimate of its expected duration and the probable impact on the performance of its obligations hereunder; (ii) the suspension of performance is of no greater scope and of no longer duration than is required by the Force Majeure, and (iii) the Party claiming Force Majeure uses commercially reasonable efforts to remedy or remove the inability to perform caused by Force Majeure, then the affected Party shall be excused from the performance of its obligations prevented by Force Majeure. However, neither Party shall be required to pay for any obligation the performance of which is excused by Force Majeure. This paragraph shall not require the settlement of any strike, walkout, lockout or other labor dispute on terms which, in the sole judgment of the Party involved in the dispute are contrary to its interest. It is understood and agreed that the settlement of strikes,

walkouts, lockouts or other labor disputes shall be entirely within the discretion of the Party involved in the dispute.

(c) No obligations of either Party which arose before the Force Majeure occurrence causing the suspension of performance are excused as a result of the occurrence.

(d) Prior to the resumption of performance suspended as a result of a Force Majeure occurrence, the Party claiming the Force Majeure shall give the other Party written notice of such resumption.

### **ARTICLE 13. WAIVERS**

No delay or omission in the exercise of any right under this Agreement shall impair any such right or shall be taken, construed or considered as a waiver or relinquishment thereof, but any such right may be exercised from time to time and as often as may be deemed expedient. The waiver of any single breach or default of any term or condition of this Agreement shall not be deemed to constitute the waiver of any other prior or subsequent breach or default of the Agreement or any other term or condition.

### **ARTICLE 14. LAWS AND REGULATIONS**

(a) This Agreement and all rights, obligations, and performances of the Parties hereunder, are subject to all applicable Federal and state laws, and to all duly promulgated orders and other duly authorized action of governmental authorities having jurisdiction hereof.

(b) The rates, terms and conditions contained in this Agreement are not subject to change under Section 205 of the Federal Power Act as that section may be amended or superceded, absent the mutual written agreement of the Parties. Each Party irrevocably waives its rights, including its rights under §§ 205-206 of the Federal Power Act, unilaterally to seek or support a change in the rate(s), charges, classifications, terms or conditions of this Agreement or any other agreements entered into in connection with this Agreement. By this provision, each Party expressly waives its right to seek or support: (i) an order from the Commission finding that the market-based rate(s), charges, classifications, terms or conditions agreed to by the Parties in the Agreement are unjust and unreasonable; or (ii) any refund with respect thereto. Each Party agrees not to make or support such a filing or request, and that these covenants and waivers shall be binding notwithstanding any regulatory or market changes that may occur hereafter.

(c) Absent the agreement of all Parties to a proposed change, the standard of review for changes to this Agreement proposed by a non-party or the Commission acting sua sponte shall be the "public interest" standard of review set forth in United Gas Pipe Line Co. v. Mobile Gas Service Corp., 350 U.S. 332 (1956) and Federal Power Commission v. Sierra Pacific Power Co., 350 U.S. 348 (1956) (the "Mobile-Sierra" doctrine).

## ARTICLE 15. INTERPRETATION, DISPUTE RESOLUTION

### Section 15.1 Governing Law

The Agreement shall be governed by and construed and performed in accordance with and the laws of the Commonwealth of Massachusetts, without giving effect to its conflict of laws principles.

### Section 15.2 Dispute Resolution

All disputes between the Buyer and Seller under this Agreement shall be referred, upon notice by one Party to the other Party, to a senior manager of Seller designated by Seller, and a senior manager of the Buyer designated by the Buyer, for resolution on an informal basis as promptly as practicable. In the event the designated senior managers are unable to resolve the dispute within ten (10) days of receipt of the notice, or such other period to which the Parties may jointly agree, such dispute shall be submitted to arbitration and resolved in accordance with the arbitration procedure set forth in this Section. The arbitration shall be conducted in Boston, Massachusetts before a single neutral arbitrator mutually agreed to and appointed by the Parties. If the Parties fail to agree upon a single arbitrator within ten (10) days of the referral of the dispute to arbitration, Seller and the Buyer shall each choose one arbitrator, who shall sit on a three-member arbitration panel. The two arbitrators so chosen shall within ten (10) days select a third arbitrator to act as chairman of the arbitration panel. In either case, the arbitrator(s) shall be knowledgeable in electric utility matters, including wholesale power transactions and power market issues, and shall not have any current or past substantial business or financial relationships with either Party or a witness for either Party and shall not have a direct or indirect interest in any Party or the subject matter of the arbitration. The arbitrator(s) shall afford each of the Parties an opportunity to be heard and, except as otherwise provided herein, shall generally conduct the arbitration in accordance with the then-current arbitration rules of the CPR Institute for Dispute Resolution (formerly known as the Center for Public Resources), unless otherwise mutually agreed by the Parties. There shall be no formal discovery conducted in connection with the arbitration unless otherwise mutually agreed by the Parties; provided, however, that the Parties shall exchange witness lists and copies of any exhibits that they intend to utilize in their direct presentations at any hearing before the arbitrator(s) at least ten (10) days prior to such hearing, along with any other information or documents specifically requested by the arbitrator(s) prior to the hearing. Any offer made and the details of any negotiations to resolve the dispute shall not be admissible in the arbitration or otherwise. Unless otherwise agreed, the arbitrator(s) shall render a decision within ninety (90) days of his, her or their appointment and shall notify the Parties in writing of such decision and the reasons therefor, and shall make an award apportioning the payment of the costs and expenses of arbitration among the Parties; provided, however, that each Party shall bear the costs and expenses of its own attorneys, expert witnesses and consultants unless the arbitrator(s), based upon a determination of good cause, awards attorneys fees and legal and other costs to the prevailing Party. The arbitrator(s) shall be authorized only to interpret and apply the provisions of this Agreement and shall have no power to modify or change the Agreement in any manner. The decision of the arbitrator(s) shall be final and binding upon the Parties, and judgment on the award may be entered in any court having jurisdiction, subject expressly to Section 15.3. The decision of the arbitrator(s) may be appealed

solely on the grounds that the conduct of the arbitrator(s), or the decision itself, violated the standards set forth in the Federal Arbitration Act and/or the Administrative Dispute Resolution Act.

**Section 15.3 Venue; Waiver of Jury Trial**

Each Party hereto irrevocably (i) submits to the exclusive jurisdiction of the federal and state courts located in the Commonwealth of Massachusetts; (ii) waives any objection which it may have to the laying of venue of any proceedings brought in any such court; and (iii) waives any claim that such proceedings have been brought in an inconvenient forum. EACH PARTY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY SUIT, ACTION OR PROCEEDING RELATING TO THIS AGREEMENT.

**ARTICLE 16. SEVERABILITY**

Any provision declared or rendered unlawful by any applicable court of law or regulatory agency or deemed unlawful because of a statutory change will not otherwise affect the remaining provisions and lawful obligations that arise under this Agreement. If any provision of this Agreement, or the application thereof to any Party or any circumstance, is invalid or unenforceable, (a) a suitable and equitable provision shall be substituted therefor in order to carry out, so far as may be valid and enforceable, the intent and purpose of such invalid or unenforceable provision, and (b) the remainder of this Agreement and the application of such provision or circumstances shall not be affected by such invalidity or unenforceability.

**ARTICLE 17. MODIFICATIONS**

No modification or amendment of this Agreement will be binding on any Party unless it is in writing and signed by both Parties.

**ARTICLE 18. ENTIRE AGREEMENT**

This Master Power Agreement, including the Appendices, any Confirmations relating to specific Transactions, the tariffs and agreements referred to herein or therein, embody the entire agreement and understanding of the Parties in respect of the transactions contemplated by this Agreement. There are no restrictions, promises, representations, warranties, covenants or undertakings, other than those expressly set forth or referred to herein or therein. It is expressly acknowledged and agreed that there are no restrictions, promises, representations, warranties, covenants or undertakings contained in any material provided or otherwise made available by the Seller or the Buyer to each other. This Agreement supersedes all prior agreements and understandings between the Parties with respect to the transactions contemplated hereby and specifically excludes written agreements executed by the Parties prior to the Effective Date.

**ARTICLE 19. COUNTERPARTS**

This Agreement may be executed in any number of counterparts, and each executed counterpart shall have the same force and effect as an original instrument.

**ARTICLE 20. INTERPRETATION; CONSTRUCTION**

The article and section headings contained in this Agreement are solely for the purpose of reference, are not part of the agreement of the Parties and shall not in any way affect the meaning or interpretation of this Agreement. For purposes of this Agreement, the term "including" shall mean "including, without limitation". The Parties acknowledge that, each Party and its counsel have reviewed and or revised this Agreement and that any rule of construction to the effect that any ambiguities are to be resolved against the drafting Party shall not be employed in the interpretation of this Agreement, and it is the result of joint discussion and negotiation.

**ARTICLE 21. REPRESENTATIONS; WARRANTIES AND COVENANTS**

(1) Each Party represents to the other Party, on the Effective Date, on the date of entering into each Transaction, and continuing throughout the term of this Agreement as follows:

(a) It is a corporation duly organized, validly existing and in good standing under the laws of its state of incorporation and has all requisite power and authority to carry on its business as is now being conducted, including all regulatory authorizations as necessary for it to legally perform its obligations hereunder.

(b) It has full power and authority to execute and deliver the Master Power Agreement and any and all Confirmations related to Transactions and to consummate and perform the transactions contemplated hereby and thereby. The Master Power Agreement and the Confirmations have been duly and validly executed and delivered by it, and, assuming that the Master Power Agreement, together with any and all Confirmations, constitutes a valid and binding agreement of the other Party, constitute together its valid and binding agreement, enforceable against it in accordance with its terms, subject to bankruptcy, insolvency, fraudulent transfer, reorganization, moratorium and similar laws of general applicability relating to or affecting creditors' rights and to general equity principles.

(c) Such execution, delivery and performance do not violate or conflict with any law applicable to it, any provision of its constitutional documents, or the terms of any note, bond, mortgage, indenture, deed of trust, license, franchise, permit, concession, contract, lease or other instrument to which it is bound, any order or judgment of any court or other agency of government applicable to it or any of its assets or any contractual restriction binding on or affecting it or any of its assets.

(d) No declaration, filing with, notice to, or authorization, permit, consent or approval of any Governmental Authority is required for the execution and delivery of the Master Power

Agreement and any and all Confirmations related to a Transaction by it or the performance by it of its obligations hereunder and thereunder, other than such declarations, filings, registrations, notices, authorizations, permits, consents or approvals which, if not obtained or made, will not, in the aggregate, have a Material Adverse Effect.

(e) Neither the execution and delivery of the Master Power Agreement or any and all Confirmations by it will, nor the performance by it of its obligations under the Master Power Agreement and any and all Confirmations related to Transactions will or does, (i) conflict with or result in any breach of any provision of its Certificate or Articles of Incorporation or Bylaws, (ii) result in a default (or give rise to any right of termination, cancellation or acceleration) under any of the terms, conditions or provisions of any note, bond, mortgage, indenture, license, agreement or other instrument or obligation to which it or any of its subsidiaries is a party or by which it or any of its subsidiaries is bound, except for such defaults (or rights of termination, cancellation or acceleration) as to which requisite waivers or consents have been obtained or which, in the aggregate, would not have a Material Adverse Effect; or (iii) violate any order, writ, injunction, decree, statute, rule or regulation applicable to it, which violation would have a Material Adverse Effect.

(f) There are no claims, actions, proceedings or investigations pending or, to its knowledge, threatened against or relating to it before any governmental authority acting in an adjudicative capacity relating to the transactions contemplated hereby that could have a Material Adverse Effect. It is not subject to any outstanding judgment, rule, order, writ, injunction or decree of any court or governmental authority which, individually or in the aggregate, would create a Material Adverse Effect.

(g) With respect to Seller, (i) it and the ISO have fully executed a Market Participant Service Agreement ("Seller's MPSA"), and have undertaken actions to obtain approval of the Commission consistent with Subsection 7.1 of the MPSA, and (ii) for any date on and after the Commission first accepts or approves the Seller's MPSA, the ISO has not filed with the Commission a notice of termination of the Seller's MPSA.

(h) It is acting for its own account, has made its own independent decision to enter into the Master Power Agreement and any and all Confirmations related to Transactions and as to whether the Master Power Agreement and such Confirmation is appropriate or proper for it based upon its own judgment, is not relying upon the advice or recommendations of the other Party hereto, and is capable of assessing the merits of and understanding, and understands and accepts, the terms, conditions and risks of the Master Power Agreement and such Confirmation.

(2) Each Party represents to the other Party, on the Effective Date and on the date of entering into each Transaction that there are no bankruptcy, insolvency, reorganization, receivership or other similar proceedings pending or being contemplated by it, or of its knowledge threatened against it.



**ARTICLE 22. CONSENTS AND APPROVALS**

The Parties shall cooperate so that each Party may take such actions as necessary and required for the other Party to effectuate and comply with this Agreement including to (i) promptly prepare and file all necessary documentation, (ii) effect all necessary applications, notices, petitions and filings and execute all agreements and documents, and (iii) use all commercially reasonable efforts to obtain all necessary consents, approvals and authorizations of all other entities, in the case of each of the foregoing clauses (i), (ii) and (iii), necessary or advisable to consummate the transactions contemplated by this Agreement. The Buyer shall have the right to review and approve in advance all characterizations of the information relating to the transactions contemplated by this Agreement which appear in any filing, press release or public announcement made in connection with the transactions contemplated hereby.

**ARTICLE 23. CONFIDENTIALITY**

Neither Seller nor the Buyer shall provide copies of or disclose the information contained in Article 2, Article 4, or Article 7 of the Master Power Agreement or in any subsequent Confirmations, and Buyer shall not disclose the identity of Seller (collectively, the “Confidential Terms”), to any third party without the prior written consent of the other Party; provided, however, that either Party, or any of its Affiliates, may provide copies or information regarding this Agreement to: (i) any regulatory agency requesting and/or requiring such Confidential Terms; (2) its suppliers; provided, further, in the case of (1) and (2), any such disclosure must include a request for confidential treatment of the Confidential Terms from the copies of the Agreement which are placed in the public record or otherwise made available to third parties or Seller’s suppliers, and (3) an Affiliate if related to the Party’s performance of its obligations hereunder, provided that such Affiliate agrees to treat the Confidential Terms as confidential in accordance with this clause.

**[Remainder of Page Intentionally Left Blank]**

IN WITNESS WHEREOF, the Parties have caused their duly authorized representatives to execute this Master Power Agreement on their behalf as of the date first above written.

**MASSACHUSETTS ELECTRIC COMPANY**

\_\_\_\_\_  
Name (print): \_\_\_\_\_  
Title: \_\_\_\_\_

\_\_\_\_\_  
Name (print): \_\_\_\_\_  
Title: \_\_\_\_\_

**APPENDIX A**  
**ESTIMATION OF SELLER HOURLY LOADS**

**Overview**

Generating units operated by suppliers are dispatched by the power pool to meet the region's electrical requirements reliably, and at the lowest possible cost. As a result, a supplier's electricity production may not match the demand of its customers. In each hour some suppliers with low cost production units or that contract for the output of such units are net sellers of electricity to the pool, while other suppliers are purchasing power from the pool to meet the demand of their customers. To determine the extent to which suppliers are net buyers or sellers on an hourly basis, it is necessary to estimate the hourly aggregate demand for all of the customers served by each supplier. The Buyer will estimate Seller's Default Service load obligations within the Buyer's Service Territory and report the hourly results to the ISO on a daily basis.

The estimation process is a cost-effective approach to producing results that are reliable, unbiased and reasonably accurate. The hourly load estimates will be based on rate class load profiles, which will be developed from statistically designed samples. Each day, the class load shapes will be scaled to the population of customers served by each supplier. In cases where telemetered data on individual customers is available, it will be used in place of the estimated shapes. On a monthly basis, the estimates will be refined by incorporating actual usage data obtained from meter readings. In both processes, the sum of all suppliers' estimated loads will match the total load delivered into the distribution system. A description of the estimation process follows.

**Daily Estimation of Suppliers' Own Load**

The daily process estimates the hourly load for each supplier for the previous day. The following is an outline of this process:

- Select a proxy date from the previous year with characteristics which best match the day for which the hourly demand estimates are being produced. Extract class load shapes for the selected proxy date from the load research database.
- Scale the class load shapes appropriately for each individual customer based on the usage level of the customer relative to the class average usage level.
- Calculate a factor for each customer which reflects their relative usage level and includes an adjustment for losses ("load adjustment factor"). Aggregate the load adjustment factors across the customers served by each supplier in each class.
- Produce a preliminary estimate of each supplier's hourly loads by combining the proxy day class load shapes with the supplier's total load adjustment factors. Aggregate the loads across the classes for each supplier.

- Adjust the preliminary hourly supplier estimates so that their sum is equal to the Buyer's actual hourly metered loads (as metered at the point of delivery to the distribution system) by allocating any differences to suppliers in proportion to their estimated load.
- Adjust the hourly supplier estimates to include transmission losses within the Buyer's transmission system.
- Submit the hourly loads to the ISO.

After the Buyer has submitted the supplier hourly loads, the ISO will allocate PTF losses to the supplier's account during the settlement process.

### **Monthly Reconciliation Process**

The monthly process will improve the estimates of supplier loads by incorporating the most recent customer usage information, which will be available after the monthly meter readings are processed. The actual customer meter readings, as well as actual interval data for the largest customers, are used to re-estimate all of the days in the calendar month being reconciled. Updates to customers' account status and supplier assignments that may have been missed during the daily processing (due to timing) are included. The resulting hourly supplier load estimates for all the days in the month are reported and used by the ISO as the basis for the monthly resettlement.

**APPENDIX B**  
**MASTER POWER AGREEMENT**  
**FORM OF CONFIRMATION**

This Confirmation shall confirm the Transaction agreed to on, and effective as of \_\_\_\_\_ between **MASSACHUSETTS ELECTRIC COMPANY**], a Massachusetts corporation (“Buyer”) and \_\_\_\_\_ (“Seller”) regarding the sale/purchase of Default Service specified herein under the terms and conditions under the Master Power Agreement, dated March 16, 2005 (the “Master Power Agreement”) between Buyer and Seller, as specified and modified herein. Terms used but not defined herein shall have the meanings ascribed to them in the Master Power Agreement.

**1. Default Service Requirements Matrix.**

<b>Award Block</b>	<b>Customer Group</b>	<b>Load Zone</b>	<b>Load Responsibility</b>	<b>Commencement Date</b>	<b>Conclusion Date</b>
TBD	TBD	TBD	TBD	TBD	TBD

**2. Contract Rate.**

<b>Award Block</b>	<b>Customer Group</b>	<b>Load Zone</b>	TBD	TBD	TBD	TBD	TBD	TBD
TBD	TBD	TBD	TBD	TBD	TBD	TBD	TBD	TBD

**3. Load Asset Designation within the ISO Settlement Market System.**

<b>Award Block</b>	<b>Customer Group</b>	<b>Load Zone</b>	<b>Load Asset Number</b>	<b>Load Asset Name</b>
TBD	TBD	TBD	TBD	TBD

**4. RPS Requirement.**

[To be determined for each Transaction]

**5. Amount Payable.**

[To be determined for each Transaction]

**6. Modifications to the Master Power Agreement.**

[To be determined for each Transaction]

**7. Security.**

[To be determined for each Transaction]

**8. Ratification of the Terms and Conditions of the Agreement.**

Except as expressly amended or waived by this Confirmation, the terms, conditions, covenants, agreements, warranties and representations contained in the Master Power Agreement are in all respects ratified, confirmed and remade as of the date hereof and, except as amended or waived hereby, shall continue in full force and effect.

**9. Counterparts.**

This Confirmation may be executed in counterparts, all of which together shall constitute one and the same instrument.

This Confirmation constitutes part of and is subject to the terms and provisions of such Master Power Agreement.

**REMAINDER OF PAGE INTENTIONALLY LEFT BLANK**

IN WITNESS WHEREOF, the Parties have caused their duly authorized representatives to execute this Confirmation on their behalf as of the date first above written

**MASSACHUSETTS ELECTRIC COMPANY**

\_\_\_\_\_

Name (print): \_\_\_\_\_

Title: \_\_\_\_\_

\_\_\_\_\_

Name (print): \_\_\_\_\_

Title: \_\_\_\_\_

APPENDIX C

FORM OF GUARANTY



REDACTED DOCUMENT

**EXECUTION COPY**

**MASTER POWER AGREEMENT  
CONFIRMATION**

**MASTER POWER AGREEMENT**

This **MASTER POWER AGREEMENT** (“Master Power Agreement”) is dated as of March 16, 2005 (the “Effective Date”) and is by and between **NANTUCKET ELECTRIC COMPANY**, a Massachusetts corporation (“Buyer”), and (“Seller”). The Buyer and Seller are referred to herein individually as a “Party” and collectively as the “Parties.”

**ARTICLE 1. BASIC UNDERSTANDINGS**

Seller and Buyer have agreed to execute this Master Power Agreement in order to establish the basic terms of Seller’s provision and sale of, and Buyer’s acceptance and purchase of, Default Service. This Master Power Agreement, together with the Appendices and written supplements (including any Confirmations) hereto, and any designated collateral, credit support or margin agreement or similar arrangement between the Parties regarding the Transactions (as defined in Article 2), shall be referred to as the “Agreement” and shall constitute the entire agreement between the Parties relating to the subject matter hereof and supersedes any other agreements, written or oral, between the Parties concerning such subject matter but specifically excluding written agreements executed by the Parties prior to the Effective Date.

**ARTICLE 2. DEFINITIONS**

**ARTICLE 3. TERM, SERVICE PROVISIONS AND REGISTRATION REQUIREMENTS**

Section 3.1 Term

The term of this Master Power Agreement (the “Term”) shall commence on the Effective Date and shall remain in effect until terminated by either Party upon thirty (30) days’ prior written notice; provided, however, that such termination shall not affect or excuse the performance of either Party under any provision of this Master Power Agreement that by its terms survives any such termination and, provided further, that this Master Power Agreement and any other documents executed and delivered hereunder shall remain in effect with respect to the Transaction(s) entered into prior to the effective date of such termination until both Parties have fulfilled all of their obligations with respect to such Transaction(s), or such Transaction(s) have been terminated under Section 7.2 of this Master Power Agreement. As of the termination of this Master Power Agreement, subject to the immediately foregoing sentence, the Parties shall no longer be bound by the terms and provisions hereof, except (a) to the extent necessary to enforce the rights and obligations of the Parties arising under this Master Power Agreement before such expiration or termination or (b) that such terms and provisions expressly or by their operation survive the termination or expiration of this Master Power Agreement.

**Section 3.2    Commencement of Electricity Supply**

(a) Beginning as of the Commencement Date for each specific Customer Group on a specific Transaction, Seller shall provide the applicable Requirements to the Buyer. For purposes of certainty: Seller's obligations on the Commencement Date shall be to provide such Requirements for all Default Service Customers identified in the related Confirmation taking service pursuant to the Default Service Tariff as of and including the Commencement Date.

(b) With respect to each person or entity that becomes a Default Service Customer subsequent to the applicable Commencement Date, Seller shall provide Requirements to the Buyer to meet the needs of the Default Service Customer(s) as of and including the Initiation Date for such customer initiating such service during the applicable Delivery Term.

(c) If Seller elects to receive electronic notification as provided in Section 3.7, the Buyer shall provide to Seller a notice of Initiation Date via electronic file transfer and in a format specified by the Buyer. Each notice of Initiation Date shall include the account number, the date Seller's service to the Buyer is to begin for a Default Service Customer and the customer's rate class.

**Section 3.3    Termination and Conclusion of Electricity Supply**

(a) With respect to each Default Service Customer that terminates Default Service, during the applicable Delivery Term, Seller shall cease providing Requirements to the Buyer for such customer after the Customer Termination Date.

(b) If Seller elects to receive electronic notification as provided in Section 3.7, the Buyer shall provide to Seller a notice of Customer Termination Date via electronic file transfer and in a format specified by the Buyer. Each notice of Customer Termination Date shall include the account number, the Customer Termination Date and the customer's rate class.

(c) Seller's obligation to provide Requirements with respect to each specific Customer Group on a specific Transaction shall cease on the applicable Conclusion Date.

**Section 3.4    Customer Disconnection Date**

(a) With respect to each Default Service Customer whose Default Service is disconnected during the applicable Delivery Term, Seller shall cease providing the applicable Requirements to the Buyer for such customer after the Customer Disconnection Date.

(b) If Seller elects to receive electronic notification as provided in Section 3.7, the Buyer shall provide to Seller a notice of Customer Disconnection Date via electronic file transfer and in a format specified by the Buyer. Each notice of Customer Disconnection Date shall include the account number, the Customer Disconnection Date and the customer's rate class.

### 3.5 Distribution Service Interruptions

Seller acknowledges that interruptions in distribution service occur and may reduce the load served hereunder. Seller further acknowledges and agrees that the Buyer may interrupt distribution service to customers consistent with the Distribution Service Terms and the Competitive Supplier Terms. In no event shall a Party have any liability or obligation to another Party in respect of any such interruptions in distribution service.

### 3.6 Release of Customer Information

The Buyer will not issue any customer information to Seller unless Seller has first obtained the necessary authorization in accordance with the provisions of the Competitive Supplier Terms.

### 3.7 Electronic Notification

At Seller's election, the Buyer shall provide notices contemplated by Sections 3.2, 3.3, and 3.4 via electronic file transfer. Such election shall only be effective when Seller (i) establishes an account on the Advantis Value Added Network ("VAN"), and (ii) verifies its ability to transfer files to and receive files from the Buyer at least fourteen (14) days prior to the day on which Seller desires to commence electronic receipt. Seller shall bear all costs to establish an account and all costs of Seller and the Buyer to use the VAN. If Seller fails to pay all VAN costs and charges when due and payable, Seller's election shall not be valid and the Buyer shall no longer be obligated to provide electronic notification.

### 3.8 Change in Supply; No Prohibition on Programs

(a) Seller acknowledges and agrees that the number of Default Service Customers and the Requirements to meet the needs of such Default Service Customers will fluctuate throughout the Delivery Term and may equal zero. Buyer shall not be liable to Seller for any losses Seller may incur, including but not limited to lost revenues, and losses that may result from any change in Requirements, number or location of Default Service Customers taking service, the location of the Delivery Point(s), the composition of market products or the market for electricity, or change in the Distribution Service Terms or the Default Service Tariff. Seller further acknowledges and agrees that there is no limit on the number of Customer Initiation Dates, Customer Termination Dates and Customer Disconnection Dates.

(b) Seller acknowledges and agrees that the Buyer shall have the right but not the obligation to continue, initiate, support or participate in any programs, promotions, or initiatives designed to or with the effect of encouraging Default Service Customers to leave Default Service for any reason ("Programs"). Nothing in this Agreement shall be construed to require notice to or approval of Seller in order for the Buyer to take any action in relation to Programs.

(c) Seller acknowledges and agrees that the Buyer and Affiliates of the Buyer will not provide Seller preferential access to or use of the Buyer's System and that Seller's sole and exclusive rights and remedies with regard to access to, use or availability of the Buyer's System, and the

Buyer's or Affiliates of the Buyer's obligation to transmit electricity are those rights, remedies and obligations provided under the Distribution Service Terms, the NEPOOL Agreement and the Market Rules and Procedures.

**3.9 Uniform Disclosure Requirements**

Seller shall provide the Buyer information pertaining to power plant emissions, fuel types, labor information and any other information required by the Buyer to comply with the uniform disclosure requirements contained in 220 CMR 11.00 and any other disclosure regulations which may be imposed upon the Buyer during the term of this Agreement, as such disclosure requirements apply to Default Service provided by Seller pursuant to this Agreement.

Seller shall utilize the NE-GIS to transfer Load Obligations to the Buyer's certificate account in the number equal to the Delivered Energy for Default Service, if any, in a month during the term of a Transaction. Seller shall also utilize the NE-GIS to transfer NE-GIS Certificates to the Buyer's certificate account in an amount equal to the Delivered Energy for Default Service, if any, for each month during the term of a Transaction; provided, that the Companies shall accept any combination of NE-GIS Certificates regardless of source. Such Load Obligations or NE-GIS Certificates, as applicable, shall be delivered by Seller at least five (5) Business Days prior to the close of the applicable Trading Period. The Load Obligations or NE-GIS Certificates, as applicable, shall be delivered by Seller to an account within the NE-GIS designated by the Buyer.

**ARTICLE 4. SALE AND PURCHASE**

**ARTICLE 5. AMOUNT, BILLING and PAYMENT**

**Section 5.1 Amount**

The amount payable by the Buyer to Seller shall be the sum of the amounts for all applicable Transactions.

**Section 5.2 Billing and Payment**

(a) On or before the tenth (10th) day of each month during the Term, Seller shall calculate the amount due and payable to Seller for Delivered Energy with respect to the preceding month (the "Calculation"). Seller shall provide the Calculation to the Buyer and such Calculation shall include sufficient detail for the Buyer to verify its formulation and computation. Calculations under this paragraph shall be subject to recalculation in accordance with Article 6 and shall be subject to adjustment (positive or negative) based upon such recalculation (a "Reconciliation Adjustment"). Seller shall promptly calculate the Reconciliation Adjustment upon receiving data described in Section 6.3 and shall include the adjustment, if any, in the next month's Invoice. A Reconciliation Adjustment based upon a change in the quantity for an earlier month shall be

calculated using the applicable Contract Rate for the month in which the Delivered Energy was received.

(b) Seller shall submit to the Buyer an invoice with such Calculation as provided for in paragraph (a) of this Section (the “Invoice”) and the respective amounts due under this Agreement not later than the tenth (10<sup>th</sup>) day of each month. The Buyer shall pay Seller the amount of the Invoice (including the Reconciliation Adjustment, if any, as a debit or credit) less any amounts disputed in accordance with Section 5.3, on or before the later of the (i) tenth (10<sup>th</sup>) day after receiving the Invoice, and (ii) the twenty-fifth (25<sup>th</sup>) day of the month in which such Invoice was received (the “Due Date”). Except for amounts disputed in accordance with Section 5.3, if all or any part of the Invoice remains unpaid after the Due Date, interest shall accrue after but not including the Due Date and be payable to Seller on such unpaid amount at the Interest Rate in effect on the Due Date. The Due Date for a Reconciliation Adjustment shall be the Due Date of the Invoice in which it is included.

(c) Each Party shall notify the other Party upon becoming aware of an error in an Invoice, Calculation or Reconciliation Adjustment (whether the amount is paid or not) and Seller shall promptly issue a corrected Invoice. Overpayments shall be returned by the receiving Party upon request or deducted by the receiving Party from subsequent invoices, with interest accrued at the Interest Rate from the date three Business Days after the receipt of the notice of overpayment until the date overpayment is reimbursed or deducted.

#### **Section 5.3    Challenge to Invoices**

Unless otherwise agreed: (i) either Party may challenge, in writing, the accuracy of Calculations, Invoices, Reconciliation Adjustments and data no later than twenty-four (24) months after the Due Date of the Invoice in which the disputed information is contained; (ii) if a Party does not challenge the accuracy within such twenty-four (24) month period, such Invoice shall be binding upon that Party and shall not be subject to challenge. With respect to amounts paid that are later disputed, upon notice of dispute, the Party receiving payment shall hold the amount in dispute in escrow for the benefit of the prevailing Party until the resolution of such dispute. If any amount in dispute is ultimately determined (under the terms herein) to be due to the other Party, it shall be paid or returned (as the case may be) to the other Party within three (3) Business Days of such determination along with interest accrued at the Interest Rate from the (i) date due and owing in accordance with the Invoice until the date paid or (ii) if the amount was paid and is to be returned, from the date paid, until the date returned.

#### **Section 5.4    Taxes, Fees and Levies**

Subject to the immediately following sentence, Seller shall be obligated to pay all present and future taxes, fees and levies (“Taxes”) which may be assessed by any entity upon the Seller's performance under this Agreement including but not limited to the purchase and sale of electricity and MA New Renewable Generation Certificates. Seller shall pay all Taxes with respect to the Requirements up to the Delivery Point, and the Buyer will pay all Taxes with respect to the Requirements at and after the Delivery Point. All Requirements, including electricity and other

related market products delivered hereunder by Seller to the Buyer shall be sales for resale with the Buyer reselling such electricity and products.

If any new obligations are imposed by state law on or after the Effective Date in connection with the retail sale of electric energy to Default Service Customers, Seller shall have no obligation to the Buyer under this Agreement for such new obligations.

**Section 5.5    Netting and Setoff**

Except for any security provided pursuant to this Agreement (which shall not be considered for purposes of this Section 5.5) and unless otherwise specified in another agreement between the Parties, if the Parties are required to pay an amount in the same month each to the other under this Agreement or any other agreement between the Parties, or if any costs that are a Party's responsibility under this Agreement are incorrectly or inappropriately charged to the Party by the ISO, such amounts shall be netted, and the Party owing the greater aggregate amount shall pay to the other Party any difference between the amounts owed. Each Party reserves all rights, setoffs, counterclaims and other remedies and defenses (to the extent not expressly herein or therein waived or denied) that such Party has or to which such Party may be entitled arising from or out of this Agreement or the other agreement. Further, if the Buyer incurs any costs or charges that are the responsibility of Seller under this Agreement, such costs or charges may, at the Buyer's election, be netted against any amount due to Seller under this Agreement. All outstanding obligations to make payment under this Agreement or any other agreement between the Parties may be netted against each other, set off or recouped there from, or otherwise adjusted.

**ARTICLE 6.            QUALITY; LOSSES and QUANTITIES REQUIRED;  
DETERMINATION AND REPORTING OF HOURLY LOADS**

**Section 6.1    Quality**

All electricity shall be delivered to the Buyer in the form of three-phase sixty-hertz alternating current at the applicable Delivery Point.

**Section 6.2    Losses**

Seller shall be responsible for all transmission and distribution losses and the costs related to such losses and associated with the Requirements, namely, losses from the applicable Delivery Point to the meters of the Default Service Customers. Seller shall provide to the Buyer at the applicable Delivery Point quantities of electricity and ancillary services, capacity and all other market products related thereto to cover such losses from the applicable Delivery Point to the meters of Default Service Customers. The quantities required for this purpose in each hour of a billing period shall be determined in accordance with NEPOOL's and the Buyer's procedures for loss determination.

**Section 6.3     Determination and Reporting of Hourly Loads**

(a) The Buyer will estimate the Delivered Energy for Default Service provided by Seller pursuant to each Transaction based upon average load profiles developed for each of the Buyer's customer classes and the Buyer's actual total hourly load. The Buyer shall report both to the ISO and to the Seller the estimated Delivered Energy for each Transaction. The Buyer will normally report to the ISO and to Seller Seller's estimated Delivered Energy by 1:00 P.M. EPT of the second following Business Day after delivery. Appendix A provides a general description of the estimation process that the Buyer will initially employ (the "Estimation Process"). The Buyer shall have the right, but not the obligation, in its sole and exclusive judgment, to modify the Estimation Process from time to time, provided that any such modification is designed with the objective of improving the accuracy of the Estimation Process.

Each month, the Buyer shall reconcile the Buyer's estimate of the Delivered Energy for each Transaction based upon the Buyer's meter reads (such meter reads as provided for in the Distribution Service Terms). The reconciliation, including all losses, shall be the adjusted Delivered Energy. The Buyer will normally notify the ISO of any resulting adjustment (debit or credit) to Seller's account for the Load Assets identified in a specific Transaction no later than the last day of the third month following the billing month. Appendix A provides a general description of this reconciliation process, which process may be changed by the Buyer from time to time in its sole and exclusive discretion, provided that such changes are not inconsistent with the Market Rules and Procedures.

**Section 6.4     ISO Settlement Market System Implementation**

As soon as possible after the execution of a Confirmation related to a specific Transaction and before the applicable Commencement Date, the Buyer shall assign to Seller, and Seller shall accept assignment of an Ownership Share for each Load Asset identified in such Confirmation. Such assignment shall be effective beginning on the applicable Commencement Date. Seller shall maintain such ownership until the Conclusion Date (or, if earlier, the termination date for the Terminated Transactions, established in accordance with 7.2(a)). Seller shall also accept the transfer of Lead Load Asset Owner ("LLAO") and shall be the LLAO beginning on the applicable Commencement Date and shall remain the LLAO until the applicable Conclusion Date (or, if earlier, the termination date for the Terminated Transactions, established in accordance with 7.2(a)). Seller shall take any and all actions necessary to effectuate such assignment and, if applicable in accordance with the foregoing, transfer, including executing documents required by the ISO. Once Seller's provision of Default Service terminates (effective the date after the applicable Conclusion Date or, if earlier, the termination date for the Terminated Transactions, established in accordance with 7.2(a)), the Buyer will terminate Seller's Ownership Shares and Lead Load Asset Ownership, as applicable, of the aforementioned Load Assets.

The Buyer shall have the right to change the Load Asset designations (identified above) from time to time, consistent with the definition and provision of Default Service. If and to the extent such designations change, the Buyer and Seller shall cooperate to timely put into effect the necessary ISO Settlement Market System contracts that may be necessary to implement the new designations and terminate the prior designations.



**ARTICLE 7.           DEFAULT AND TERMINATION**

**ARTICLE 8.           NOTICES, REPRESENTATIVES OF THE PARTIES**

Section 8.1   Notices

Any notice, demand, or request required or authorized by this Agreement to be given by one Party to another Party shall be in writing. It shall either be sent by facsimile (with receipt confirmed by telephone), courier, personally delivered (including overnight delivery service) or mailed, postage prepaid, to the representative of the other Party designated in accordance with this Article. Any such notice, demand, or request shall be deemed to be given (i) when sent by facsimile confirmed by telephone, (ii) when actually received if delivered by courier or personal delivery (including overnight delivery service) or (iii) seven (7) days after deposit in the United States mail, if sent by first class mail return receipt requested.

Notices and other communications by Seller to the Buyer shall be addressed to:

Mr. Michael J. Hager  
Vice President, Energy Supply – New England  
National Grid USA Service Company, Inc.  
55 Bearfoot Road  
Northborough, MA 01532  
(508) 421-7350 (phone)  
(508) 421-7335 (fax)

and

Notices concerning Article 7 shall also be sent to:

General Counsel  
National Grid USA Service Company, Inc.  
25 Research Drive  
Westborough, MA 01582  
(508) 389-9000 (phone)  
(508) 389-2605 (fax)

Notices and other communications by the Buyer to Seller shall be addressed to:

Any Party may change its representative or address for notices by written notice to the other Party; however such notice shall not be effective until it is received by the other Party.

**Section 8.2    Authority of Representative**

The Parties' representatives shall have full authority to act for their respective Party in all matters relating to the performance of this Agreement. Notwithstanding the foregoing, a Party's representative shall not have the authority to amend, modify, or waive any provision of this Agreement unless they are duly authorized officers of their respective entities and such amendment, modification or waiver is made in accordance with Article 17.

**ARTICLE 9.            LIABILITY; INDEMNIFICATION; RELATIONSHIP OF PARTIES**

**Section 9.1    Limitation on Consequential, Incidental and Indirect Damages**

EXCEPT AS EXPRESSLY PROVIDED IN SECTION 9.2, TO THE FULLEST EXTENT PERMISSIBLE BY LAW, NEITHER THE BUYER NOR SELLER, NOR THEIR RESPECTIVE OFFICERS, DIRECTORS, AGENTS, EMPLOYEES, PARENT OR AFFILIATES, SUCCESSOR OR ASSIGNS, OR THEIR RESPECTIVE OFFICERS, DIRECTORS, AGENTS, OR EMPLOYEES, SUCCESSORS, OR ASSIGNS, SHALL BE LIABLE TO THE OTHER PARTY OR ITS PARENT, SUBSIDIARIES, AFFILIATES, OFFICERS, DIRECTORS, AGENTS, EMPLOYEES, SUCCESSORS OR ASSIGNS, FOR CLAIMS, SUITS, ACTIONS OR CAUSES OF ACTION FOR INCIDENTAL, INDIRECT, SPECIAL, PUNITIVE, MULTIPLE OR CONSEQUENTIAL DAMAGES (INCLUDING ATTORNEY'S FEES OR LITIGATION COSTS EXCEPT AS EXPRESSLY PROVIDED IN SECTION 15.2) CONNECTED WITH OR RESULTING FROM PERFORMANCE OR NON-PERFORMANCE OF THIS AGREEMENT, OR ANY ACTIONS UNDERTAKEN IN CONNECTION WITH OR RELATED TO THIS AGREEMENT, INCLUDING WITHOUT LIMITATION ANY SUCH DAMAGES WHICH ARE BASED UPON CAUSES OF ACTION FOR BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE AND MISREPRESENTATION), BREACH OF WARRANTY, STRICT LIABILITY, STATUTE, OPERATION OF LAW, OR ANY OTHER THEORY OF RECOVERY. THE PROVISIONS OF THIS SECTION SHALL APPLY REGARDLESS OF FAULT AND SHALL SURVIVE TERMINATION, CANCELLATION, SUSPENSION, COMPLETION OR EXPIRATION OF THIS AGREEMENT.

Section 9.2 Indemnification

(a) Seller agrees to defend, indemnify and save the Buyer, its officers, directors, employees, agents, successors assigns, and Affiliates and their officers, directors, employees and agents harmless from and against any and all third-party claims, suits, actions or causes of action and any resulting losses, damages, charges, costs or expenses, (including reasonable attorneys' fees and court costs), arising from or in connection with any (a) breach of a representation or warranty or failure to perform any covenant or agreement in this Agreement by Seller, (b) any violation of applicable law, regulation or order by Seller, (c) any act or omission by Seller with respect to this Agreement, first arising, occurring or existing during the term of this Agreement, whether incurred by settlement or otherwise, and whether such claims or actions are threatened or filed prior to or after the termination of this Agreement, except to the extent caused by an act of gross negligence or willful misconduct by an officer, director, agent, employee, or Affiliate of the Buyer or its respective successors or assigns.

(b) The Buyer agrees to defend, indemnify and save Seller, its officers, directors, employees, agents, successor, assigns, and Affiliates and their officers, directors, employees and agents harmless from and against any and all third-party claims, suits, actions or causes of action and any resulting losses, damages, charges, costs or expenses, (including reasonable attorneys' fees and court costs), arising from or in connection with any (a) breach of representation or warranty or failure to perform any covenant or agreement in this Agreement by said Buyer, (b) any violation of applicable law, regulation or order by said Buyer, (c) any act or omission by the Buyer, with respect to this Agreement first arising, occurring or existing during the term of this Agreement, whether incurred by settlement or otherwise, and whether such claims or actions are threatened or filed prior to or after the termination of this Agreement, except to the extent caused by an act of gross negligence or willful misconduct by an officer, director, agent, employee or Affiliate of Seller or its respective successors or assigns.

(c) If any Party intends to seek indemnification under this Section from the other Party with respect to any action or claim, the Party seeking indemnification shall give the other Party notice of such claim or action within thirty (30) days of the later of the commencement of, or actual knowledge of, such claim or action; provided, however, that in the event such notice is delivered more than thirty (30) days after the Party seeking indemnification knows of such claim or action, the indemnifying Party shall be relieved of its indemnity hereunder only if and to the extent such indemnifying Party was actually prejudiced by such delay. The Party seeking indemnification shall have the right, at its sole cost and expense, to participate in the defense of any such claim or action. The Party seeking indemnification shall not compromise or settle any such claim or action without the prior consent of the other Party, which consent shall not be unreasonably withheld.

Section 9.3 Independent Contractor Status

Nothing in this Agreement shall be construed as creating any relationship between the Buyer and Seller other than that of independent contractors for the sale and delivery of Requirements for Default Service.

**ARTICLE 10. ASSIGNMENT**

**Section 10.1 General Prohibition Against Assignments**

Except as provided in Section 10.2, neither Party shall assign, pledge or otherwise transfer this Agreement or any right or obligation under this Agreement without first obtaining the other Party's written consent, which consent shall not be unreasonably withheld, conditioned or delayed.

**Section 10.2 Exceptions to Prohibition Against Assignments**

(a) Seller may, without the Buyer's prior written consent, collaterally assign this Agreement in connection with financing arrangements provided that any such collateral assignment that provides for the Buyer to direct payments to the collateral agent (i) shall be in writing, (ii) shall not be altered or amended without prior written notice to the Buyer from both Seller and the collateral agent, and (iii) provided that any payment made by the Buyer to the collateral agent shall discharge the Buyer's obligation as fully and to the same extent as if it had been made to the Seller. Seller must provide the Buyer at least ten (10) days advance written notice of collateral assignment and provide copies of any such assignment and relevant agreements or writings.

(b) Either Party may, upon written notice, assign its rights and obligations hereunder, or transfer such rights and obligations by operation of law, to any Affiliate or to any corporation or other entity with which or into which such Party shall merge or consolidate or to which such Party shall transfer all or substantially all of its assets, provided that such Affiliate or other entity agrees to be bound by the terms hereof and provided further, that such other Affiliate's or entity's creditworthiness is comparable to or higher than that of such Party at the time this Agreement was executed and such Party is not relieved of any obligation or liability hereunder as a result of such assignment.

**ARTICLE 11. SUCCESSORS AND ASSIGNS**

This Agreement shall inure to the benefit of and shall be binding upon the Parties hereto and their respective successors and permitted assigns.

**ARTICLE 12. FORCE MAJEURE**

(a) Force Majeure shall include but not be limited to acts of God, earthquakes, fires, floods, storms, strikes, labor disputes, riots, insurrections, acts of war (whether declared or otherwise), acts of governmental, regulatory or judicial bodies, but if and only to the extent that such event or circumstance (i) directly affects the availability of the transmission or distribution facilities of NEPOOL, the Buyer or an Affiliate of the Buyer necessary to provide service to the Buyer's customers which are taking service pursuant to the Default Service Tariff and (ii) it is not within the reasonable control of, or the result of the negligence of, the claiming Party, and which, by the exercise of due diligence, the claiming Party is unable to overcome or avoid or cause to be avoided. Force Majeure shall not be based on (A) fluctuations in Default Service, (B) the cost to a Party to

overcome or avoid, or cause to be avoided, the event or circumstance affecting such Party's performance or (C) events affecting the availability or cost of operating any generating facility.

(b) To the extent that either Party is prevented by Force Majeure from carrying out, in whole or in part, its obligations hereunder and (i) such Party gives notice and detail of the Force Majeure to the other Party as soon as practicable after the onset of the Force Majeure, including an estimate of its expected duration and the probable impact on the performance of its obligations hereunder; (ii) the suspension of performance is of no greater scope and of no longer duration than is required by the Force Majeure, and (iii) the Party claiming Force Majeure uses commercially reasonable efforts to remedy or remove the inability to perform caused by Force Majeure, then the affected Party shall be excused from the performance of its obligations prevented by Force Majeure. However, neither Party shall be required to pay for any obligation the performance of which is excused by Force Majeure. This paragraph shall not require the settlement of any strike, walkout, lockout or other labor dispute on terms which, in the sole judgment of the Party involved in the dispute are contrary to its interest. It is understood and agreed that the settlement of strikes, walkouts, lockouts or other labor disputes shall be entirely within the discretion of the Party involved in the dispute.

(c) No obligations of either Party which arose before the Force Majeure occurrence causing the suspension of performance are excused as a result of the occurrence.

(d) Prior to the resumption of performance suspended as a result of a Force Majeure occurrence, the Party claiming the Force Majeure shall give the other Party written notice of such resumption.

## **ARTICLE 13. WAIVERS**

No delay or omission in the exercise of any right under this Agreement shall impair any such right or shall be taken, construed or considered as a waiver or relinquishment thereof, but any such right may be exercised from time to time and as often as may be deemed expedient. The waiver of any single breach or default of any term or condition of this Agreement shall not be deemed to constitute the waiver of any other prior or subsequent breach or default of the Agreement or any other term or condition.

## **ARTICLE 14. LAWS AND REGULATIONS**

(a) This Agreement and all rights, obligations, and performances of the Parties hereunder, are subject to all applicable Federal and state laws, and to all duly promulgated orders and other duly authorized action of governmental authorities having jurisdiction hereof.

(b) The rates, terms and conditions contained in this Agreement are not subject to change under Section 205 of the Federal Power Act as that section may be amended or superceded, absent the mutual written agreement of the Parties. Each Party irrevocably waives its rights, including its rights under §§ 205-206 of the Federal Power Act, unilaterally to seek or support a change in the rate(s), charges, classifications, terms or conditions of this Agreement or any other agreements

entered into in connection with this Agreement. By this provision, each Party expressly waives its right to seek or support: (i) an order from the Commission finding that the market-based rate(s), charges, classifications, terms or conditions agreed to by the Parties in the Agreement are unjust and unreasonable; or (ii) any refund with respect thereto. Each Party agrees not to make or support such a filing or request, and that these covenants and waivers shall be binding notwithstanding any regulatory or market changes that may occur hereafter.

(c) Absent the agreement of all Parties to a proposed change, the standard of review for changes to this Agreement proposed by a non-party or the Commission acting sua sponte shall be the "public interest" standard of review set forth in United Gas Pipe Line Co. v. Mobile Gas Service Corp., 350 U.S. 332 (1956) and Federal Power Commission v. Sierra Pacific Power Co., 350 U.S. 348 (1956) (the "Mobile-Sierra" doctrine).

## ARTICLE 15. INTERPRETATION, DISPUTE RESOLUTION

### Section 15.1 Governing Law

The Agreement shall be governed by and construed and performed in accordance with and the laws of the Commonwealth of Massachusetts, without giving effect to its conflict of laws principles.

### Section 15.2 Dispute Resolution

All disputes between the Buyer and Seller under this Agreement shall be referred, upon notice by one Party to the other Party, to a senior manager of Seller designated by Seller, and a senior manager of the Buyer designated by the Buyer, for resolution on an informal basis as promptly as practicable. In the event the designated senior managers are unable to resolve the dispute within ten (10) days of receipt of the notice, or such other period to which the Parties may jointly agree, such dispute shall be submitted to arbitration and resolved in accordance with the arbitration procedure set forth in this Section. The arbitration shall be conducted in Boston, Massachusetts before a single neutral arbitrator mutually agreed to and appointed by the Parties. If the Parties fail to agree upon a single arbitrator within ten (10) days of the referral of the dispute to arbitration, Seller and the Buyer shall each choose one arbitrator, who shall sit on a three-member arbitration panel. The two arbitrators so chosen shall within ten (10) days select a third arbitrator to act as chairman of the arbitration panel. In either case, the arbitrator(s) shall be knowledgeable in electric utility matters, including wholesale power transactions and power market issues, and shall not have any current or past substantial business or financial relationships with either Party or a witness for either Party and shall not have a direct or indirect interest in any Party or the subject matter of the arbitration. The arbitrator(s) shall afford each of the Parties an opportunity to be heard and, except as otherwise provided herein, shall generally conduct the arbitration in accordance with the then-current arbitration rules of the CPR Institute for Dispute Resolution (formerly known as the Center for Public Resources), unless otherwise mutually agreed by the Parties. There shall be no formal discovery conducted in connection with the arbitration unless otherwise mutually agreed by the Parties; provided, however, that the Parties shall exchange witness lists and copies of any exhibits that they intend to utilize in their direct presentations at any hearing before the arbitrator(s)

at least ten (10) days prior to such hearing, along with any other information or documents specifically requested by the arbitrator(s) prior to the hearing. Any offer made and the details of any negotiations to resolve the dispute shall not be admissible in the arbitration or otherwise. Unless otherwise agreed, the arbitrator(s) shall render a decision within ninety (90) days of his, her or their appointment and shall notify the Parties in writing of such decision and the reasons therefor, and shall make an award apportioning the payment of the costs and expenses of arbitration among the Parties; provided, however, that each Party shall bear the costs and expenses of its own attorneys, expert witnesses and consultants unless the arbitrator(s), based upon a determination of good cause, awards attorneys fees and legal and other costs to the prevailing Party. The arbitrator(s) shall be authorized only to interpret and apply the provisions of this Agreement and shall have no power to modify or change the Agreement in any manner. The decision of the arbitrator(s) shall be final and binding upon the Parties, and judgment on the award may be entered in any court having jurisdiction, subject expressly to Section 15.3. The decision of the arbitrator(s) may be appealed solely on the grounds that the conduct of the arbitrator(s), or the decision itself, violated the standards set forth in the Federal Arbitration Act and/or the Administrative Dispute Resolution Act.

**Section 15.3 Venue; Waiver of Jury Trial**

Each Party hereto irrevocably (i) submits to the exclusive jurisdiction of the federal and state courts located in the Commonwealth of Massachusetts; (ii) waives any objection which it may have to the laying of venue of any proceedings brought in any such court; and (iii) waives any claim that such proceedings have been brought in an inconvenient forum. EACH PARTY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY SUIT, ACTION OR PROCEEDING RELATING TO THIS AGREEMENT.

**ARTICLE 16. SEVERABILITY**

Any provision declared or rendered unlawful by any applicable court of law or regulatory agency or deemed unlawful because of a statutory change will not otherwise affect the remaining provisions and lawful obligations that arise under this Agreement. If any provision of this Agreement, or the application thereof to any Party or any circumstance, is invalid or unenforceable, (a) a suitable and equitable provision shall be substituted therefor in order to carry out, so far as may be valid and enforceable, the intent and purpose of such invalid or unenforceable provision, and (b) the remainder of this Agreement and the application of such provision or circumstances shall not be affected by such invalidity or unenforceability.

**ARTICLE 17. MODIFICATIONS**

No modification or amendment of this Agreement will be binding on any Party unless it is in writing and signed by both Parties.

**ARTICLE 18. ENTIRE AGREEMENT**

This Master Power Agreement, including the Appendices, any Confirmations relating to specific Transactions, the tariffs and agreements referred to herein or therein, embody the entire agreement and understanding of the Parties in respect of the transactions contemplated by this Agreement. There are no restrictions, promises, representations, warranties, covenants or undertakings, other than those expressly set forth or referred to herein or therein. It is expressly acknowledged and agreed that there are no restrictions, promises, representations, warranties, covenants or undertakings contained in any material provided or otherwise made available by the Seller or the Buyer to each other. This Agreement supersedes all prior agreements and understandings between the Parties with respect to the transactions contemplated hereby and specifically excludes written agreements executed by the Parties prior to the Effective Date.

**ARTICLE 19. COUNTERPARTS**

This Agreement may be executed in any number of counterparts, and each executed counterpart shall have the same force and effect as an original instrument.

**ARTICLE 20. INTERPRETATION; CONSTRUCTION**

The article and section headings contained in this Agreement are solely for the purpose of reference, are not part of the agreement of the Parties and shall not in any way affect the meaning or interpretation of this Agreement. For purposes of this Agreement, the term "including" shall mean "including, without limitation". The Parties acknowledge that, each Party and its counsel have reviewed and or revised this Agreement and that any rule of construction to the effect that any ambiguities are to be resolved against the drafting Party shall not be employed in the interpretation of this Agreement, and it is the result of joint discussion and negotiation.

**ARTICLE 21. REPRESENTATIONS; WARRANTIES AND COVENANTS**

(1) Each Party represents to the other Party, on the Effective Date, on the date of entering into each Transaction, and continuing throughout the term of this Agreement as follows:

(a) It is a corporation duly organized, validly existing and in good standing under the laws of its state of incorporation and has all requisite power and authority to carry on its business as is now being conducted, including all regulatory authorizations as necessary for it to legally perform its obligations hereunder.

(b) It has full power and authority to execute and deliver the Master Power Agreement and any and all Confirmations related to Transactions and to consummate and perform the transactions contemplated hereby and thereby. The Master Power Agreement and the Confirmations have been duly and validly executed and delivered by it, and, assuming that the Master Power Agreement, together with any and all Confirmations, constitutes a valid and binding agreement of the other Party, constitute together its valid and binding agreement, enforceable against it in



accordance with its terms, subject to bankruptcy, insolvency, fraudulent transfer, reorganization, moratorium and similar laws of general applicability relating to or affecting creditors' rights and to general equity principles.

(c) Such execution, delivery and performance do not violate or conflict with any law applicable to it, any provision of its constitutional documents, or the terms of any note, bond, mortgage, indenture, deed of trust, license, franchise, permit, concession, contract, lease or other instrument to which it is bound, any order or judgment of any court or other agency of government applicable to it or any of its assets or any contractual restriction binding on or affecting it or any of its assets.

(d) No declaration, filing with, notice to, or authorization, permit, consent or approval of any Governmental Authority is required for the execution and delivery of the Master Power Agreement and any and all Confirmations related to a Transaction by it or the performance by it of its obligations hereunder and thereunder, other than such declarations, filings, registrations, notices, authorizations, permits, consents or approvals which, if not obtained or made, will not, in the aggregate, have a Material Adverse Effect.

(e) Neither the execution and delivery of the Master Power Agreement or any and all Confirmations by it will, nor the performance by it of its obligations under the Master Power Agreement and any and all Confirmations related to Transactions will or does, (i) conflict with or result in any breach of any provision of its Certificate or Articles of Incorporation or Bylaws, (ii) result in a default (or give rise to any right of termination, cancellation or acceleration) under any of the terms, conditions or provisions of any note, bond, mortgage, indenture, license, agreement or other instrument or obligation to which it or any of its subsidiaries is a party or by which it or any of its subsidiaries is bound, except for such defaults (or rights of termination, cancellation or acceleration) as to which requisite waivers or consents have been obtained or which, in the aggregate, would not have a Material Adverse Effect; or (iii) violate any order, writ, injunction, decree, statute, rule or regulation applicable to it, which violation would have a Material Adverse Effect.

(f) There are no claims, actions, proceedings or investigations pending or, to its knowledge, threatened against or relating to it before any governmental authority acting in an adjudicative capacity relating to the transactions contemplated hereby that could have a Material Adverse Effect. It is not subject to any outstanding judgment, rule, order, writ, injunction or decree of any court or governmental authority which, individually or in the aggregate, would create a Material Adverse Effect.

(g) With respect to Seller, (i) it and the ISO have fully executed a Market Participant Service Agreement ("Seller's MPSA"), and have undertaken actions to obtain approval of the Commission consistent with Subsection 7.1 of the MPSA, and (ii) for any date on and after the Commission first accepts or approves the Seller's MPSA, the ISO has not filed with the Commission a notice of termination of the Seller's MPSA.

(h) It is acting for its own account, has made its own independent decision to enter into the Master Power Agreement and any and all Confirmations related to Transactions and as to

whether the Master Power Agreement and such Confirmation is appropriate or proper for it based upon its own judgment, is not relying upon the advice or recommendations of the other Party hereto, and is capable of assessing the merits of and understanding, and understands and accepts, the terms, conditions and risks of the Master Power Agreement and such Confirmation.

(2) Each Party represents to the other Party, on the Effective Date and on the date of entering into each Transaction that there are no bankruptcy, insolvency, reorganization, receivership or other similar proceedings pending or being contemplated by it, or of its knowledge threatened against it.

## **ARTICLE 22. CONSENTS AND APPROVALS**

The Parties shall cooperate so that each Party may take such actions as necessary and required for the other Party to effectuate and comply with this Agreement including to (i) promptly prepare and file all necessary documentation, (ii) effect all necessary applications, notices, petitions and filings and execute all agreements and documents, and (iii) use all commercially reasonable efforts to obtain all necessary consents, approvals and authorizations of all other entities, in the case of each of the foregoing clauses (i), (ii) and (iii), necessary or advisable to consummate the transactions contemplated by this Agreement. The Buyer shall have the right to review and approve in advance all characterizations of the information relating to the transactions contemplated by this Agreement which appear in any filing, press release or public announcement made in connection with the transactions contemplated hereby.

## **ARTICLE 23. CONFIDENTIALITY**

Neither Seller nor the Buyer shall provide copies of or disclose the information contained in Article 2, Article 4, or Article 7 of the Master Power Agreement or in any subsequent Confirmations, and Buyer shall not disclose the identity of Seller (collectively, the “Confidential Terms”), to any third party without the prior written consent of the other Party; provided, however, that either Party, or any of its Affiliates, may provide copies or information regarding this Agreement to: (i) any regulatory agency requesting and/or requiring such Confidential Terms; (2) its suppliers; provided, further, in the case of (1) and (2), any such disclosure must include a request for confidential treatment of the Confidential Terms from the copies of the Agreement which are placed in the public record or otherwise made available to third parties or Seller’s suppliers, and (3) an Affiliate if related to the Party’s performance of its obligations hereunder, provided that such Affiliate agrees to treat the Confidential Terms as confidential in accordance with this clause.

**[Remainder of Page Intentionally Left Blank]**

IN WITNESS WHEREOF, the Parties have caused their duly authorized representatives to execute this Master Power Agreement on their behalf as of the date first above written.

**NANTUCKET ELECTRIC COMPANY**

\_\_\_\_\_

Name (print): \_\_\_\_\_

Title: \_\_\_\_\_

\_\_\_\_\_

Name (print): \_\_\_\_\_

Title: \_\_\_\_\_

**APPENDIX A**  
**ESTIMATION OF SELLER HOURLY LOADS**

**Overview**

Generating units operated by suppliers are dispatched by the power pool to meet the region's electrical requirements reliably, and at the lowest possible cost. As a result, a supplier's electricity production may not match the demand of its customers. In each hour some suppliers with low cost production units or that contract for the output of such units are net sellers of electricity to the pool, while other suppliers are purchasing power from the pool to meet the demand of their customers. To determine the extent to which suppliers are net buyers or sellers on an hourly basis, it is necessary to estimate the hourly aggregate demand for all of the customers served by each supplier. The Buyer will estimate Seller's Default Service load obligations within the Buyer's Service Territory and report the hourly results to the ISO on a daily basis.

The estimation process is a cost-effective approach to producing results that are reliable, unbiased and reasonably accurate. The hourly load estimates will be based on rate class load profiles, which will be developed from statistically designed samples. Each day, the class load shapes will be scaled to the population of customers served by each supplier. In cases where telemetered data on individual customers is available, it will be used in place of the estimated shapes. On a monthly basis, the estimates will be refined by incorporating actual usage data obtained from meter readings. In both processes, the sum of all suppliers' estimated loads will match the total load delivered into the distribution system. A description of the estimation process follows.

**Daily Estimation of Suppliers' Own Load**

The daily process estimates the hourly load for each supplier for the previous day. The following is an outline of this process:

- Select a proxy date from the previous year with characteristics which best match the day for which the hourly demand estimates are being produced. Extract class load shapes for the selected proxy date from the load research database.
- Scale the class load shapes appropriately for each individual customer based on the usage level of the customer relative to the class average usage level.
- Calculate a factor for each customer which reflects their relative usage level and includes an adjustment for losses ("load adjustment factor"). Aggregate the load adjustment factors across the customers served by each supplier in each class.
- Produce a preliminary estimate of each supplier's hourly loads by combining the proxy day class load shapes with the supplier's total load adjustment factors. Aggregate the loads across the classes for each supplier.

- Adjust the preliminary hourly supplier estimates so that their sum is equal to the Buyer's actual hourly metered loads (as metered at the point of delivery to the distribution system) by allocating any differences to suppliers in proportion to their estimated load.
- Adjust the hourly supplier estimates to include transmission losses within the Buyer's transmission system.
- Submit the hourly loads to the ISO.

After the Buyer has submitted the supplier hourly loads, the ISO will allocate PTF losses to the supplier's account during the settlement process.

### **Monthly Reconciliation Process**

The monthly process will improve the estimates of supplier loads by incorporating the most recent customer usage information, which will be available after the monthly meter readings are processed. The actual customer meter readings, as well as actual interval data for the largest customers, are used to re-estimate all of the days in the calendar month being reconciled. Updates to customers' account status and supplier assignments that may have been missed during the daily processing (due to timing) are included. The resulting hourly supplier load estimates for all the days in the month are reported and used by the ISO as the basis for the monthly resettlement.

**APPENDIX B**  
**MASTER POWER AGREEMENT**  
**FORM OF CONFIRMATION**

This Confirmation shall confirm the Transaction agreed to on, and effective as of \_\_\_\_\_ between **NANTUCKET ELECTRIC COMPANY**, a Massachusetts corporation (“Buyer”) and (“Seller”) regarding the sale/purchase of Default Service specified herein under the terms and conditions under the Master Power Agreement, dated March 16, 2005 (the “Master Power Agreement”) between Buyer and Seller, as specified and modified herein. Terms used but not defined herein shall have the meanings ascribed to them in the Master Power Agreement.

**1. Default Service Requirements Matrix.**

<b>Award Block</b>	<b>Customer Group</b>	<b>Load Zone</b>	<b>Load Responsibility</b>	<b>Commencement Date</b>	<b>Conclusion Date</b>
TBD	TBD	TBD	TBD	TBD	TBD

**2. Contract Rate.**

<b>Award Block</b>	<b>Customer Group</b>	<b>Load Zone</b>	TBD	TBD	TBD	TBD	TBD	TBD
TBD	TBD	TBD	TBD	TBD	TBD	TBD	TBD	TBD

**3. Load Asset Designation within the ISO Settlement Market System.**

<b>Award Block</b>	<b>Customer Group</b>	<b>Load Zone</b>	<b>Load Asset Number</b>	<b>Load Asset Name</b>
TBD	TBD	TBD	TBD	TBD

**4. RPS Requirement.**

[To be determined for each Transaction]

**5. Amount Payable.**

[To be determined for each Transaction]

**6. Modifications to the Master Power Agreement.**

[To be determined for each Transaction]

**7. Security.**

[To be determined for each Transaction]

**8. Ratification of the Terms and Conditions of the Agreement.**

Except as expressly amended or waived by this Confirmation, the terms, conditions, covenants, agreements, warranties and representations contained in the Master Power Agreement are in all respects ratified, confirmed and remade as of the date hereof and, except as amended or waived hereby, shall continue in full force and effect.

**9. Counterparts.**

This Confirmation may be executed in counterparts, all of which together shall constitute one and the same instrument.

This Confirmation constitutes part of and is subject to the terms and provisions of such Master Power Agreement.

**REMAINDER OF PAGE INTENTIONALLY LEFT BLANK**

IN WITNESS WHEREOF, the Parties have caused their duly authorized representatives to execute this Confirmation on their behalf as of the date first above written

**NANTUCKET ELECTRIC COMPANY**

\_\_\_\_\_

Name (print): \_\_\_\_\_

Title: \_\_\_\_\_

.

\_\_\_\_\_

Name (print): \_\_\_\_\_

Title: \_\_\_\_\_



APPENDIX C

FORM OF GUARANTY

REDACTED DOCUMENT

**EXECUTION COPY**

**MASTER POWER AGREEMENT  
CONFIRMATION**